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GEORGE CRITCHLOW

This Article offers two narratives about how we might identify and pursue our law school missions. The first is a partly satirical and partly serious discussion about the obsessive need for law schools to chase rankings and fame. It suggests that the stated mission of many law schools is trumped by the real mission—to become famous (highly ranked)—and that this disconnect prevents such law schools from creating important and innovative mission-based education programs that serve students and the larger public interest. The second narrative addresses the question of whether there is room for a law school that chooses a different path. It explicitly raises the question: is it okay to be a lower-ranked law school? The Article recommends strategies for schools that might wish to escape the rankings game and concludes by asserting that many law schools will have a difficult time adapting to modern challenges if they are motivated primarily by what U.S. News & World Report deems important.

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Kim Kardashian and Honey Boo Boo: Models for Law School Success (or Not)

GEORGE CRITCHLOW*

*“Mirror, mirror on the wall, Who is fairest of us all?”*¹

*“Riches and rank are what every man craves; yet if the only way to obtain them goes against his principles, he should desist from such a pursuit.”*²

I. INTRODUCTION

This Article is a partly satirical and partly serious discussion about the obsessive need for law schools to chase rankings and fame. Part II suggests that the stated mission of many law schools is trumped by the real mission—to become famous (highly ranked)—and that this disconnect prevents such law schools from creating important and innovative mission-based education programs that serve students and the larger public interest. Part III addresses the question of whether there is room for a law school that chooses a different path. It explicitly raises the question: is it okay to be a lower-ranked law school? The Article develops issues related to diversity, the historical role of the Law School Admission Test (“LSAT”), the purpose of law schools, the emphasis on faculty scholarship rather than teaching, the ABA accreditation standards, faculty tenure, and more. Part IV recommends strategies for law schools that might wish to escape the rankings game. The Article concludes by asserting that many law schools will have a difficult time adapting to modern challenges if they are motivated primarily by what *U.S. News & World Report* (“*USNWR*”) deems important.

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¹ THE BROTHERS GRIMM, SNOW-WHITE AND THE SEVEN DWARFS (Randall Jarrell trans., 7th prtg. 1985).

² CONFUCIUS, THE ANALECTS OF CONFUCIUS 15 (Simon Leys trans., W.W. Norton & Co., Inc. 1997).

II. CHASING FAME

The phrase “famous for being famous” is practically synonymous with Kim Kardashian—who, without discernible talent, but well-endowed with money and looks, became a famous celebrity through shrewd self-promotion and brand marketing.³ She surrounded herself with famous people: her late father, attorney Robert Kardashian (who was famous for representing O. J. Simpson), her stepfather, Bruce Jenner (famous Olympic athlete), her husbands (famous music producer Damon Thomas and famous professional basketball player Kris Humphries), and her boyfriends (famous R&B singer Ray J, and famous professional football players Reggie Bush and Miles Austin). She has made excellent use of the media (reality television, *Playboy* magazine, and sex tapes) to gain attention and create the impression that she is an important and famous person.⁴ Paris Hilton blazed the trail for Ms. Kardashian.⁵ More recently, a six-year old girl, self-named Honey Boo Boo Child, has become famous on cable television by engaging in outlandish behavior and drinking “Go-Go Juice,” a Red Bull and Mountain Dew concoction.⁶ Her early road to fame was paved by appearances on a TLC reality show *Toddlers and Tiaras*, after which she used YouTube, Facebook, and mainstream media (Good

³ See, e.g., *Barbara Walters Tells Kardashian Family: ‘You Have No Talent,’* HUFFINGTON POST (Dec. 15, 2011, 4:23 PM), http://www.huffingtonpost.com/2011/12/15/barbara-walters-tells-kardashian-family--you-have-no-talent_n_1151089.html (“You are ‘famous for being famous,’ Barbara Walters told the women of the Kardashian family.”); Adam Buckman, *Caught on Tape: Kim Kardashian Goes Home to His Family*, N.Y. POST (Oct. 14, 2007, 5:00 AM), www.nypost.com/p/entertainment/tv/item_sM8H2NBD1xiE6XCTwArn1L;jsessionid=4F32Co2DB4805CC9823ECAE90C (“They’re the Kardashians, a clan whose notoriety stems most recently from daughter Kim’s performance in a homemade sex video.”); Clyde Smith, *Vivid Entertainment Spends \$1-Million to Acquire Notorious Video ‘Starring’ Sexy Socialite Kim Kardashian and Hip Hop Star Ray J*, HIP HOP PRESS (Feb. 7, 2007), http://www.hiphoppress.com/2007/02/vivid_entertain (“The beautiful and curvaceous Ms. Kardashian . . . is the daughter of the late attorney Robert Kardashian, who defended O.J. Simpson in his murder trial. Her stepfather is 1976 Olympic decathlon gold medalist Bruce Jenner. Often covered by the entertainment and gossip press, Ms. Kardashian frequently attends Hollywood events with her celebrity pals, including best friend, Paris Hilton.”); Madison Vanderberg, *Kardashian Family: The Backlash of Being Overexposed*, HOLLYSCOOP (Dec. 23, 2011), <http://www.hollyscoop.com/kim-kardashian/kardashian-family-the-backlash-of-being-overexposed.html> (“Becoming one of the most famous-for-being famous families ever, the Kardashians are starting to gain a lot of haters. Whether they are disliked for planning a . . . TV Wedding, or getting divorced 72 days later, or whoring out every aspect of their life, The [sic] Kardashians are becoming the most bashed family this year.”).

⁴ Vanderberg, *supra* note 3 (showing the negative reaction of more established celebrities to the Kardashian brand of fame stemming from “whoring out every aspect of their life”).

⁵ See Abbey Goodman, *The Man Who ‘Made’ Paris Hilton*, CNN (Nov. 2, 2011, 4:13 PM), <http://www.cnn.com/2011/11/02/showbiz/celebrity-news-gossip/jason-moore-on-paris-hilton/index.html> (“[T]here’s no denying that Hilton is a shrewd self-promoter and brand marketer. Some say she transformed celebrity more than any other modern-day star.”).

⁶ *Honey Boo Boo Child*, KNOW YOUR MEME, <http://www.knowyourmeme.com/memes/people/honey-boo-boo-child> (last visited Feb. 4, 2013).

Morning America, Dr. Drew, N.Y. Daily News, Daily Mail, CBS Atlanta, Buzzfeed, and Jezebel) to propel herself to stardom and secure her own spin-off series, *Here Comes Honey Boo Boo*.⁷ Ms. Boo Boo cleverly promotes her own fame by associating herself with Ms. Kardashian's fame in a song captured by an Access Hollywood film clip.⁸

A. *The Lesson for Law Schools*

Surely there is a lesson here for law schools that hope also to become famous. While many legal educators occupy their time thinking about how to attract students, establish goals, and allocate resources based on a mission defined by things such as public service, ethics, professionalism, good teaching, or preparing students to be “practice-ready,” it may be that the only mission statement necessary for less famous law schools is: “Our mission is to become famous.”⁹ Once formulated in this way, the benefits are apparent and the strategy for implementing the mission becomes clear and concrete.¹⁰

A famous law school is, by definition, one that attracts attention. A law school that attracts attention is one whose name will be known, remembered, and talked about by lawyers, judges, and educators who are called upon to identify law schools and programs in response to *USNWR* surveys.¹¹ Fame is likely to create a competitive advantage in attracting

⁷ *Id.*

⁸ *Honey Boo Boos Sings a Song About Kim Kardashian*, ACCESS HOLLYWOOD (2011), <http://www.watch.accesshollywood.com/video/honey-boo-boo-sings-a-song-about-kim-kardashian/1775687057001> (last visited, Feb. 4, 2013).

⁹ In his discussion on the importance of mission statements, Gordon T. Butler reminds us to “begin with the end in mind.” Gordon T. Butler, *The Law School Mission Statement: A Survival Guide for the Twenty-First Century*, 50 J. LEGAL EDUC. 240, 242 (2000) (quoting STEPHEN R. COVEY, *THE SEVEN HABITS OF HIGHLY EFFECTIVE PEOPLE* 143 (1989)); see also *id.* at 248–53 (looking at schools’ mission statements compared to their answers to a questionnaire about their actual mission and school values); Bethany Rubin Henderson, *Asking the Lost Question: What Is the Purpose of Law School?*, 53 J. LEGAL EDUC. 48, 53 (2003) (“A recent survey of law school deans revealed that the schools’ mission statements do not accurately reflect what deans believe to be their school’s internal strengths, public image, or core values—primary elements that schools use in making strategic decisions.”).

¹⁰ KARL ALBRECHT, *THE NORTHBOUND TRAIN: FINDING THE PURPOSE, SETTING THE DIRECTION, SHAPING THE DESTINY OF YOUR ORGANIZATION* 149 (1994) (stating that an effective mission statement should address: the customer, the value premise, and what makes you special). The beauty in having a mission to become famous is that it simplifies the work of the faculty. A faculty might well be able to coalesce around the following: *Our customers are students who are impressed by fame; our value is that we are committed to being famous; and what makes us special is that we are (or expect to be) famous.*

¹¹ Peer assessment counts 25% of the total score upon which *USNWR* rankings are based. “Peers” are law school deans, deans of academic affairs, chairs of faculty appointments, and the most recently tenured faculty. The assessment score by lawyers and judges constitutes 15% of the total *USNWR* score—the group includes the hiring partners of law firms, state attorneys general, and selected federal and state judges. See Robert Morse & Sam Flanigan, *Methodology: Law School Rankings*, U.S. NEWS & WORLD REP. (Mar. 12, 2012), <http://www.usnews.com/education/best-graduate->

applicants.¹² Fame will attract money from donors who revel in being associated with famous institutions.¹³ Money will also come to famous law schools in the form of increased tuition that students are willing to pay because they hope to have a degree from a famous school.¹⁴ Finally, fame will contribute to greater self-esteem among law school faculty because it will counteract the haunting and pervasive fear at some law schools that faculty are not sufficiently recognized and valued.¹⁵

When the mission is to achieve fame, strategies for implementing the mission will crystallize in such a way as to compel agreement by even the most obtuse faculty member. The agenda will be clear: commit a large portion of the law school budget to the distribution of promotional literature. This agenda is sometimes referred to as “law porn,” which may be the functional equivalent in the law school world to the sex tapes that

schools/articles/2011/03/14/law-school-rankings-methodology-2012, for further explanation of the methodology.

¹² See Terry Carter, *Rankled by the Rankings*, 84 A.B.A. J. 46, 52 (1998) (“‘The reality is that students are interested, and for reasons that are not entirely silly,’ says [Brian] Leiter. ‘It’s reasonable for them to be concerned with prestige and reputation, and rankings speak to that.’”); Wendy N. Espeland & Michael Sauder, *Rankings and Diversity*, 18 S. CAL. REV. L. & SOC. JUST. 587, 594–96 (2009) [hereinafter Espeland & Sauder, *Rankings and Diversity*] (discussing different law school applicants and their views on prestige and reputation of different law schools, and how their views play a role in admissions decisions).

¹³ MARJORIE M. SHULTZ & SHELDON ZEDECK, FINAL REPORT: IDENTIFICATION, DEVELOPMENT, AND VALIDATION OF PREDICTORS FOR SUCCESSFUL LAWYERING 84 (2008) (unpublished manuscript), available at <http://www.law.berkeley.edu/files/LSACREPORTfinal-12.pdf> (“Higher rankings increase prestige, draw students, loosen alumni and donor wallets, give faculty ego points, and raise leverage within the university. Consequently, no matter where they place on the scale (except for a few iconoclasts like CUNY, New College, or Northeastern), schools want to move up the charts. Each, therefore, emulates those above them, from the bottom to the top of the scales.”).

¹⁴ See SHULTZ & ZEDECK, *supra* note 13, at 84 (discussing the impact of higher rankings drawing students, and “loosen[ing] alumni and donor wallets”).

¹⁵ *Id.*; see also Richard Bourne, *The Coming Crash in Legal Education: How We Got Here, and Where We Go Now*, 45 CREIGHTON L. REV. 651, 664 (2012) (“The rankings play directly into the psychological needs of students and teachers across the board, because they feed directly into the almost unconscious worship of hierarchy, however illegitimate, that afflicts law students, law teachers, and the legal services industry.”). David Segal provides further insight into law schools’ struggle for status within the larger university:

“Law school has a kind of intellectual inferiority complex, and it’s built into the idea of law school itself,” says W. Bradley Wendel of the Cornell University Law School, a professor who has written about landing a law school teaching job. “People who teach at law school are part of a profession *and* part of a university. So we’re always worried that other parts of the academy are going to look down on us and say: ‘You’re just a trade school, like those schools that advertise on late-night TV. You don’t write dissertations. You don’t write articles that nobody reads.’ And the response of law school professors is to say: ‘That’s not true. We do all of that. We’re scholars, just like you.’”

David Segal, *What They Don’t Teach Law Students: Lawyering—Correction Appended*, N.Y. TIMES, Nov. 20, 2011, at A1 (emphasis added).

helped raise the profiles of both Kim Kardashian and Paris Hilton.¹⁶ The mission will also dictate advancement of the school's brand ("famous law school") in the promotional literature, on the law school website, and in the way administrators and faculty talk about themselves to each other and to external audiences.¹⁷ The mission will clearly dictate the hiring of famous teachers over unknown teachers. Since fame will replace the conventional mission focus on such things as teaching excellence, ethics, public service, and diversity, the need to evaluate what a candidate brings to the law school in these areas will diminish.¹⁸ The mission will also clarify budget

¹⁶ See Hunter R. Clarke, *How the U.S. News Rankings Affect American Legal Education*, 91 JUDICATURE 80, 84 (2007) (discussing how a law school dean believes that the resources that would go toward law porn could be used elsewhere). Rather than spending money on promotional literature, the law school dean stated:

I could hire a faculty member for the amount of money I spend on [marketing]; I could support 20 students for this price; I could buy a substantial number of books for our library; all of which strikes me as what this enterprise ought to be about. . . . I could almost support an entire legal writing program. I could fund a clinic. I could do any of those things. Instead I'm putting out a magazine which goes to people who are not interested.

Id.; see also Wendy Nelson Espeland & Michael Sauder, *Rankings and Reactivity: How Public Measures Recreate Social Worlds*, 113 AM. J. SOC. 1, 26 (2007) (describing how, despite spending hundreds of thousands of dollars on marketing in an effort to boost schools' profiles, "[n]early every dean [the authors] interviewed admitted that they were so inundated with these materials that they barely looked at them"); Guy Martin, *Downloads Are a Girl's Best Friend*, THE GUARDIAN (Jun. 19, 2004), <http://www.guardian.co.uk/theobserver/2004/jun/20/features.magazine57?INTCMP=SRC> (discussing how Paris Hilton turned infamy into fame after the release of her explicit home video); *Robert Pattinson: Kim Kardashian a Modern Georges Duroy*, THE IMPROPER (Feb. 18, 2012), <http://www.theimproper.com/film/4163/robert-pattinson-kim-kardashian-modern-georges-duroy-photos-2> ("Kim [Kardashian] gained notoriety for a scandalous sex tape. She used that to leverage her way into entertainment and became a pop culture icon through a string of sexual liaisons with high profile men.").

¹⁷ Butler, *supra* note 9, at 266 ("[W]ith the *U.S. News* emphasis on reputation, many law schools have decided to send out annual bulletins touting the extent of the faculty's scholarship and listing the distinguished visiting speakers during the coming academic year. Because of the focus on reputation, law schools increasingly include in their strategic plans the goal of improving the school's 'image' by publicizing nationally the school's activities, honors, and awards.").

¹⁸ Dean of New York Law School, Richard Matasar, recalls what a senior colleague advised him when he began teaching in 1980:

This job is ostensibly about teaching, scholarship, and service. But, this is how it actually works. You've got to be a credible teacher. That means you need to teach at least one substantial course, with high student enrollments. This will allow you to teach other courses more interesting to you—whether they are necessary for the students or not. You need to do decently well in your teaching evaluations so that people think you are doing a good job. But, do not invest too highly in trying to perfect your classes because the marginal payoff is low. If you are competent and the students don't hate you, you can then concentrate on what matters—your writing. Write early, write often, and write big thoughts. That is what will sell and what will make you famous. As to service, avoid any really heavy assignment except for appointments—because appointments will give you a say in who your

priorities by directing money away from costly (and controversial) programs and student support and into the pockets of famous administrators, faculty members, and students who advance the mission.

B. *The Benefits of Fame*

There are several beneficial byproducts of a mission focused on fame. Most important, it eliminates the awkward tension between diversity and admissions goals.¹⁹ There is simply no room for discrimination or double-talk in a school that is truly committed to the goal of being famous. An applicant for admission or a faculty candidate who is famous will be given preference regardless of race, gender, religion, sexual orientation, or cultural background. No longer will law professors have to lower their eyes or check their smartphone messages when asked why their school does not reflect the diversity that exists in the larger world. Fame is no respecter of race or privilege.²⁰ Fame will attract, without the need for

colleagues will be. If you follow this advice, you will get tenure, you will become famous, the school will value you, your salary will go up, and you will have the opportunity to move up the hierarchy to a fancier school with better students.

Richard A. Matasar, *Defining Our Responsibilities: Being an Academic Fiduciary*, 17 J. CONTEMP. LEGAL ISSUES 67, 70–71 (2008).

¹⁹ The tension exists because many law schools emphasize (at diversity conferences, on websites, in promotional literature, and in multicultural settings) that they care about increasing diversity. At other times (usually at private faculty and administrative committee meetings), they sadly conclude that admissions goals with respect to LSAT scores and grades cannot be compromised by admitting diversity applicants who, for cultural reasons, sometimes do not perform well on standardized tests. See SHULTZ & ZEDECK, *supra* note 13, at 87–88 (describing how the LSAT scores that law schools heavily rely on for admissions favor white applicants, but are less predictive of future performance than other factors); Espeland & Sauder, *Rankings and Diversity*, *supra* note 12, at 588, 599 (describing how a high emphasis on LSAT reduces the rankings of law schools that admit a highly diverse group of students). John Nussbaumer, *Misuse of the Law School Admission Test, Racial Discrimination, and the de Facto Quota System for Restricting African-American Access to the Legal Profession*, 80 ST. JOHN'S L. REV. 167, 174 (2006) (showing that schools who raised their twenty-fifth percentile LSAT score saw their African-American student populations decline quicker than the national average). Research consistently shows that heavy emphasis on LSAT scores in admission decisions substantially reduces the presence of African-Americans, Native Americans, and Latino students in law school and the legal profession, and also diminishes the prospects of admission of those from most non-elite families. Nussbaumer, *supra*, at 170, 175, 179. The virtue of placing fame at the core of a school's mission is that students and faculty whose goal is to be famous, or to shine in the reflected light of the already famous, will be accepted without regard to cultural and historical barriers. Other admissions requirements will become irrelevant in the same way that screen tests are irrelevant for Honey Boo Boo and Kim Kardashian.

²⁰ This is not to suggest that people of color, women, gays, lesbians, the physically challenged, and the poor have an easier time gaining fame. It is enough to say that *if* they should gain fame, they would be unlikely to encounter bias in admissions criteria or process by law schools that are serious about becoming famous. An applicant's fame would presumably trump even a relatively low LSAT. Of course, a law school seeking fame might be well advised to seek an ABA waiver of the LSAT requirement for applicants who fall into the "famous" category. Possibilities for recruitment might include famous multiracial celebrities. See Susan Eckert, *Famous Multiracial Celebrities*, SUITE 101

questionable affirmative action, diverse faculty candidates and students who are either already famous or hope to be famous by joining a famous community.²¹

Another beneficial effect of making fame the core of the mission statement is that it undercuts potential criticism that a law school's actual behavior and spending priorities depart from its mission. It also counters the allegation that a law school has no mission. These claims can be awkward—especially for deans and faculties caught between the plain language or meaning of their mission statements and their dominant operational desire to base all decisions on how they might be perceived by external observers like *USNWR*.²² The truth is that most constituents—alumni, faculty, students, administrators, and university board members—are uncomfortable with the prospect that their stated mission will obstruct their true mission of becoming nationally known. (In the law school world, being a “national” school is tantamount to being famous.) So why not just eliminate the conflict between mission statement and practice by stating that a school's mission is to become famous? This is more honest and streamlined than the pretense and obfuscation sometimes occasioned when mission rhetoric does not comport with action.²³

(Dec. 6, 2007), <http://suite101.com/article/famous-multiracial-celebrities-a37252> (demonstrating that there is evidence of increasing numbers of famous multiracial celebrities).

²¹ A discussion of the constitutionality and policy arguments relating to affirmative action appears in various U.S. Supreme Court cases. See, e.g., *Gratz v. Bollinger*, 539 U.S. 244, 268 (2003) (holding that diversity of student body is not “too open-ended, ill-defined, [or] indefinite to constitute a compelling interest capable of supporting narrowly-tailored means”); *Grutter v. Bollinger*, 539 U.S. 306, 322, 325 (2003) (holding that “student body diversity is a compelling state interest that can justify the use of race in university admissions”); *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 270 (1978) (affirming a lower court ruling that a state medical school's consideration of an applicant's race violated the Equal Protection Clause); see also *Coal. to Defend Affirmative Action v. Granholm*, 473 F.3d 237, 248 (6th Cir. 2006) (holding that the Equal Protection Clause of the Fourteenth Amendment “prevents ‘official conduct discriminating on the basis of race,’ and on the basis of sex, not official conduct that bans ‘discriminat[ion] against’ or ‘preferential treatment to’ individuals on the basis of race or sex” (citations omitted)). If the University of Michigan Law School had focused on admitting famous applicants rather than implementing race-conscious admissions policies, it may have been able to have both a diverse student body and a reputation as a famous law school.

²² Butler, *supra* note 9, at 266–67 (noting that some law schools include in their mission statements a goal to improve their performance on metrics similar to the ones employed by *USNWR* to evaluate schools).

²³ *Id.* at 268 (“Although law schools are quite vocal in rejecting the U.S. News rankings, a movement up in the rankings is a cause for celebration at any law school, and some schools openly strive to move up. The primary goal of the University of Alabama law school's 1998–2001 strategic plan was to become one of U.S. News' top fifty law schools. To achieve this, the school compares itself with other public institutions in the top fifty. . . . Since Alabama trails in ‘reputation by academics,’ it establishes a goal of ‘reputation/institutional advancement.’”). A recent change in *USNWR* rankings methods has motivated many law schools to abandon educational opportunity in favor of rankings and fame. *USNWR* did not traditionally require law schools to report the numerical credentials of new part-time students. It now requires schools to report the scores of all new students. This has caused many schools to reduce or eliminate part-time law school programs designed to

That educators, students, and alumni prefer fame over other possible mission orientations is abundantly demonstrated in the world of sports. The sports world validates the proposition that national recognition and fame are important for educational institutions.²⁴ Certainly that is the case at my own university, Gonzaga University, where the school's national profile has gone up in direct proportion to the fame garnered by its basketball program.²⁵ Applicants who apply to universities with big-time sports programs are often attracted by the fame achieved by those sports programs as opposed to those schools' missions.²⁶ Sports, therefore, provide a lens through which we can understand the utility of fame as a preferred mission. Sports inform us that an institution can become successful by spawning famous programs that have nothing to do with bothersome goals like public service, professionalism, diversity, and teaching excellence. It is surely valid and appropriate for law schools to learn from this and consider jettisoning traditional mission statements in favor of transparent, simple, and powerful statements that explicitly bring people together around the desire to be famous.

Some may view this analysis as unrealistic because it is unlikely (through lack of commitment, vision, leadership, resources, or media saturation) that all law schools can be successful in becoming famous. It is true that law schools, unlike the children in Garrison Keillor's fictional

provide legal education to applicants with lower scores and to working and non-traditional students who might not be able to go to another law school. Karen Sloan, *Part-Time Law School Losing Allure; Lagging Enrollment Inspires Fears for Programs' Future*, NAT'L L.J. (Feb. 6, 2012), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202541306229&srreturn=1>.

²⁴ Steven R. Cox & Dianne M. Roden, *Quality Perception and the Championship Effect: Do Collegiate Sports Influence Academic Rankings?*, 6 RES. HIGHER EDUC. J. 1, 4, 6 (2010) (finding that colleges that win national championships in a sport see improvements in their overall image and a higher number of students applying); see also Chaim Ehrman & Allen Marber, *The Relationship Between a College's Success in Sports to Applications, Enrollments and SAT Scores*, 12 J. AM. ACAD. BUS. 26, 28 (2008) ("There is clear evidence that a University with a good varsity team . . . will realize improved applications, enrollments, and average S.A.T. scores.").

²⁵ Ron Lieber, *Score! Gonzaga University Was Struggling Financially; Then It Started Winning Basketball Games*, WALL ST. J., Mar. 15, 2004, at R11.

²⁶ See CHARLES T. CLOTFELTER, *BIG-TIME SPORTS IN AMERICAN UNIVERSITIES*, at xi-xiii (2011) (discussing the "phenomenon of big-time college sports" and how sports play a prominent "role in the everyday life of universities and the communities and states around them," while also finding that "[r]eferences to athletics are similarly missing from most official mission statements crafted by universities" which could lead one to believe that college athletics "is little more than a minor extracurricular activity"); Charles T. Clotfelter, *Is Sports in Your Mission Statement?*, CHRON. HIGHER EDUC. (Oct. 24, 2010), <http://chronicle.com/article/Is-sports-in-your-mission/125038/> ("Is it an overstatement to claim that athletics is a core function of these universities? My fellow faculty members would no doubt shrink from that view, for few of us relish the thought that we work in the entertainment business. Most of us would prefer to believe the words of our universities' official mission statements, which are more likely to mention our law schools, our schools of social work, our agricultural extension services, or a host of other administrative units, than they are to mention intercollegiate athletics.").

Lake Wobegon,²⁷ cannot all be above average, but there is no evidence that any particular school, with dedication, focus, and vision, cannot become famous. In any event, the argument that it is impossible for all schools to be famous misses the point. Most schools already want to be famous and they act accordingly even though false modesty prevents them from publicly acknowledging the fact. They should simply “talk the walk” by explicitly and transparently embracing the mission of becoming famous. Their mission statements should proudly trumpet the real mission. This step alone will be liberating, intoxicating, and self-fulfilling.²⁸

Others may agree that becoming famous is important and should be included as part of a law school’s mission (at least for less famous schools), but argue nonetheless that there is room for more traditional mission goals. Frankly, this view is more likely to come from those associated with law schools that are already famous and who therefore have the luxury and wherewithal to contemplate and pursue other goals. These schools should take care not to become too complacent by allowing competing goals to obstruct the primary importance of maintaining their fame. For instance, a law school might want to give transformational educational opportunities to members of historically marginalized groups whose LSAT scores often fall below the normal admissions threshold. While such a move might be motivated by goodwill and a desire to improve society, a law school must remain vigilant in its awareness of how this goal detracts from efforts to sustain the school’s fame and status. For lower-ranked law schools that are not otherwise famous, it is imperative to resist the temptation to benefit individuals or society, unless it is clear that such action will lead to national recognition and fame.²⁹

Consider also the danger that a school faces if it should succumb to the temptation to divert faculty research and scholarship money to educational programs that directly affect students. It is very difficult for a school to become famous for innovative educational programs that work. However, schools *do* become famous by being associated with famous faculty names

²⁷ See Andrea A., *Post to the Host: A Prairie Home Companion with Garrison Keillor*, PUBLICRADIO.ORG (Nov. 2, 2007), http://www.publicradio.org/columns/prairiehome/posthost/2007/11/02/dear_mr_keillor_as_a_1.php (discussing the background for Garrison Keillor’s phrase “where all the women are strong, the men are good-looking, and the children are above average” in his novel *Lake Wobegon*).

²⁸ Success itself is not guaranteed. Even Paris Hilton’s fame appears to be declining. But at least she was famous for a while and will undoubtedly be able to squeeze benefits from her one-time celebrity status for years to come.

²⁹ Faith-based schools founded on a mission of serving the greater good are especially vulnerable to being distracted from the pursuit of fame—there will likely be constituents who will drag the school down by insisting that good works are more important. These schools must persuade such constituents of the importance of delayed gratification regarding any notion of the greater good.

on articles, books, and blogs.³⁰ It is not important that the content of these publications be useful to students or lawyers; indeed, it is not even important that anyone read these writings.³¹ What is necessary is to get attention from external audiences that count articles, books, and footnotes. A subsidiary benefit to underwriting faculty research and scholarship is that its cost—the cost of fame—can be passed on to students in the form of increased tuition. Students will gladly pay (and government loans will fund) higher tuition for a degree from a famous school and neither students nor the government is in a position to question how an invisible, but famous, faculty member spends his or her time.

C. Conclusion: Law Schools Chasing Fame

Law schools—especially lower-ranked law schools whose traditional missions are built around the goal of preparing students to be capable, ethical, and public service minded lawyers—need to rethink their mission. Like Kim Kardashian and Honey Boo Boo, law schools can be successful by committing themselves to the goal of getting attention and increased recognition.³² Law schools need to bypass obsolete mission statements that confuse people and detract from what should be the real mission. In a word, law schools must commit to becoming famous.

Finally, some may believe this discussion is simply meant to be satirical, maybe even funny. Would it not be humorous to suggest that law schools are driven by the values and goals of a Hollywood public relations agency? Well, not necessarily. If a law school's real interest is to get attention, to raise its national profile, and to be ranked higher by *USNWR*, and if that interest overrides all else, it would be therapeutic, honest, ethical, and more efficient simply to admit it and get on with whatever is necessary to make it happen.

³⁰ See Theodore Eisenberg & Martin T. Wells, *Ranking and Explaining the Scholarly Impact of Law Schools*, 27 J. LEGAL STUD. 373, 374–75 (1998) (measuring the top law schools' academic reputation by "assessing the degree to which . . . legal academics use the schools' scholarly output," and finding that "Yale's high place in the rankings is attributable to a high rate of lateral hires with significant scholarly impact"); James Lindgren & Daniel Seltzer, *The Most Prolific Law Professors and Faculties*, 71 CHI.-KENT L. REV. 781, 795 (1996) (discussing, for example, the University of Colorado Law School's ranking in the top fourteen most prolific law faculties because it "had the single most prolific professor in the country . . . as well as two other professors in the top twenty").

³¹ See Richard Brust, *The High Bench v. the Ivory Tower*, A.B.A. J. (Feb 1, 2012, 5:00 AM), http://www.abajournal.com/magazine/article/the_high_bench_vs_the_ivory_tower/ (discussing how some judges and practitioners claim that law review articles are "of little use to understanding everyday law").

³² See Charles A. Goldman, Susan M. Gates & Dominic J. Brewer, *Prestige or Reputation: What Is a Sound Investment?*, CHRON. HIGHER EDUC., Oct. 5, 2001, at B13 (discussing prestige and prestige-seeking in higher education).

III. IS THERE ROOM IN LEGAL EDUCATION FOR STRONG REGIONAL LAW SCHOOLS WHOSE MISSIONS ARE NOT TO BECOME FAMOUS?

Some legal educators believe that rankings are important and useful because consumers benefit from and are entitled to this information.³³ They also believe that rankings are beneficial because they motivate law schools to improve.³⁴ Many see rankings as odious, hypocritical, and destructive—a force that leads to higher costs, homogeneous curricula, methods, and values—all at the expense of teaching excellence, public interest, diversity, progress, innovation, and efficiency.³⁵ Other professional school educators share this view in the context of medical and business school rankings.³⁶

³³ See Mitchell Berger, *Why the U.S. News and World Report Law School Rankings Are Both Useful and Important*, 51 J. LEGAL EDUC. 487, 496–97 (2001) (maintaining that rankings are useful and convenient for applicants because they provide important information such as bar exam passage and employment rates, while the rankings also help make law schools accountable).

³⁴ See *id.* at 497–98 (“U.S. News can help lift the veil of ignorance from the eyes of both applicants and the public by comparing law schools using important criteria. This can spur law schools to seriously reflect on the quality of their offerings and take steps to improve.”).

³⁵ See, e.g., David C. Yamada, *Same Old, Same Old: Law School Rankings and the Affirmation of Hierarchy*, 31 SUFFOLK U. L. REV. 249, 260–62 (1997) (discussing how the ranking system “reinforces the notion of an educational caste system” while ignoring “diverse perspectives” and neglecting “to consider the topic of finances”); Brent E. Newton, *The Ninety-Five Theses: Systematic Reforms in Legal Education and Licensure*, 64 S.C. L. REV. 55, 77–78 (2012), available at papers.ssrn.com/sol3/papers.cfm?abstract_id=1994189 (discussing how rankings have led schools “to engage in a wide variety of practices, some unethical and possibly illicit, to game or exploit the system”). Criticism of rankings is not a new phenomenon, as evidenced in this 1994 article about law school quality:

Ranking has little to do with the actual quality of schools, but it has a great deal to do with perceptions within the school and without. Within regional law schools, ranking is likely to lead to feelings of inferiority. Everywhere, ranking discriminates against graduates of lower-ranked schools, regardless of a graduate’s individual merit. The ranking process itself is demoralizing, both for professors and students. Any ranking of law schools is especially cruel since it marks all but the national schools as inferior. Even students in national law schools are likely to question whether they are as good as they ought to be. Merit ranking is defended as encouraging (forcing) faculty to publish and rewarding them for doing so. Critics note that most of what is written is worth little to the bar, judiciary, or any other reader, and serves only to pad the author’s curriculum vitae. Teaching (highly valued by student-customers) is assigned a lower priority by faculty that is intent on getting national attention.

John Mixon & Gordon Otto, *Continuous Quality Improvement, Law, and Legal Education*, 43 EMORY L.J. 393, 442 (1994) (footnotes omitted).

³⁶ See William C. McGaghie & Jason A. Thompson, *America’s Best Medical Schools: A Critique of the U.S. News & World Report Rankings*, 76 ACAD. MED. 985, 987–90 (2001) (discussing the impact of rankings on medical schools, and the underlying flaws of the ranking system such as “yield[ing] distinctions without differences”); Andrew J. Policano, *What Price, BIZED*, Sept./Oct. 2005, at 26, 29, 31 (discussing the impact of rankings on business schools, including the unintended consequences of altering the way business schools operate); cf. Kai Peters, *Business School Rankings:*

A. *The Perils of the Rankings Regime*

One law professor recently observed that rankings lead to “the almost unconscious worship of hierarchy, however illegitimate, that afflicts law students, law teachers, and the legal services industry” and that the “mania for prestige drives faculties to become . . . status seekers” who lose sight of the interests of students and the public they serve.³⁷

In a 2008 article, Dean Richard Matasar said:

[I] am now even more firmly convinced that legal education is in jeopardy because we have lost sight of the intrinsic purposes of our schools. Our single minded pursuit of prestige, our allocation of resources biased to producing a good life for employees, our preoccupation with the views of outsiders are dysfunctional barriers to providing real value to those for whose benefit we arguably toil. In this regime, we have organized education to be about us, not those who place trust in us.³⁸

Controversy and criticism have also arisen in connection with the widespread understanding that rankings influence some schools to engage in dishonesty by “gaming” the rankings system through the manipulation of data (e.g., job placement, student financial aid, and admission scores).³⁹

Content and Context, 26 J. MGMT. DEV. 49–53 (2007) (acknowledging the negative influences of rankings but arguing that rankings are here to stay and that schools must learn to live with them).

³⁷ Bourne, *supra* note 15, at 664.

³⁸ Richard A. Matasar, *Defining Our Responsibilities: Being an Academic Fiduciary*, 17 J. CONTEMP. LEGAL ISSUES 67, 119 (2008). Law Professor Mark Osler recently stated on his blog:

While in Washington last week for the AALS convention, I was able to hear two law school leaders say these two things: (1) The U.S. News ratings are a false proxy for quality, they stifle innovation and degrade our service to students, are leading us to financial disaster, and are making us corrupt; and (2) At my institution, I am doing everything I can to maintain or increase the US News rank of our school.

In other words, these leaders were both saying that the pursuit of rankings is corrupting and bad, and that they are complicit in it.

To identify something as wrong, in such a profound way, and continue to serve that wrong ideal is poor leadership, it lacks integrity, and it serves as a terrible example to our students and communities. All that we do as educators is a form of teaching, and what this is teaching is the accommodation of clearly bad principles.

If you want to a lead a law school, damn it, then *lead*. If that means rejecting the tyranny of the rankings, then do so.

Mark Osler, *Leaders, It's Time to Lead*, LAW SCH. INNOVATION (Jan. 11, 2012), <http://lsi.typepad.com/lsi/2012/week2/index.html>.

³⁹ See David Segal, *Is Law School a Losing Game?*, N.Y. TIMES, Jan. 9, 2011, at BU1 (reporting on gaming in both law schools and colleges); Daniel E. Slotnik & Richard Perez-Pena, *College Says It Exaggerated SAT Figures for Ratings*, N.Y. TIMES, Jan. 31, 2012, at A12 (“[A] small, prestigious California school . . . has submitted false SAT scores to publications.”); Paul L. Caron, *Law School*

At least fifteen law schools were named as defendants in class-action lawsuits alleging that the schools committed fraud by publishing misleading job-placement data.⁴⁰ These data count for 20% in the *USNWR* rankings methodology.⁴¹

While many of these cases have been dismissed, some law schools have confessed to false reporting of LSAT scores and undergraduate grade point averages in order to achieve higher rankings.⁴²

Some observers acknowledge that rankings can drive schools to act in unprincipled and distasteful ways, but argue that they cannot be ignored if a school wants to be competitive and keep its important constituents happy.⁴³ Many in legal education point to the ABA's accreditation standards, in addition to the pressure of rankings, as a significant hindrance to a law school's ability to innovate, cut costs, and increase diversity.⁴⁴

Rankings, TAXPROF BLOG, http://taxprof.typepad.com/taxprof_blog/law_school_rankings/ (last updated May 9, 2013) (reporting on changes, scandals, and other news with regard to rankings and reporting).

⁴⁰ Moira Herbst, *Fraud Suits Against Law Schools 'Credit Negative': Moody's*, THOMSON REUTERS (Feb. 10, 2012), http://newsandinsight.thomsonreuters.com/Legal/News/2012/02_-_February/Fraud_suits_against_law_schools_credit_negative__Moody_s/.

⁴¹ Morse & Flanigan, *supra* note 11.

⁴² Karen Sloan, *Law Schools' Credibility at Issue*, NAT'L L.J. (Sep. 19, 2011) ("The law school world was scandalized . . . when Villanova University School of Law announced that its former dean and admissions officials had for years inflated the Law School Admission Test scores and grade-point averages of the school's incoming classes."); *see also* Abby Rogers, *Lawyer Hasn't Given up on Suing the 'Cash Cow' Law School Industry*, BUS. INSIDER (Dec. 13, 2012, 11:00 AM), <http://www.businessinsider.com/david-anziska-calls-law-schools-frauds-2012-12> (discussing a lawyer's attempt to win his clients, law-school graduates, partial tuition reimbursement from schools inflating post-graduation employment statistics).

⁴³ *See, e.g.*, Espeland & Sauder, *Rankings and Diversity*, *supra* note 12, at 594–97 (noting the relevance of high rankings to some students and the detrimental effects rankings have on schools' admissions processes); Alex M. Johnson, Jr., *The Destruction of the Holistic Approach to Admissions: The Pernicious Effects of Rankings*, 81 IND. L.J. 309, 349 (2006) (discussing that the competitiveness of human nature drives schools' constituents to strive for high rankings). AALS President N. William Hines lamented the continued influence of *USNWR* rankings:

Realistically, it is unlikely the U.S. News rankings will go away any time soon. The legal education establishment has pressed U.S. News for years, that if they insist on doing these annual rankings, to limit their publication of law school rankings in the same manner as they do all their other rankings, that is, to publish only a top 25 or top 50 listing instead of purporting to rank every accredited law school. Until such a change is made, deans will continue to be fired or retained, faculty will accept or reject offers, law firms will hire or not hire graduates, and students will enroll or not enroll on the basis of unreliable, if not misleading, information published in the U.S. News rankings.

N. William Hines, *Ten Major Changes in Legal Education over the Past 25 Years*, AALS NEWS, Aug. 2005, at 1, 3, available at http://www.aals.org/documents/aals_newsletter_aug05.pdf.

⁴⁴ A discussion about the history, legality, and effects of ABA regulation of law schools is beyond the scope of this Article, but there is a plethora of research and writing on the subject. *See, e.g.*, Jay Conison, *The Architecture of Accreditation*, 96 IOWA L. REV. 1515, 1517 (2011) (analyzing law school accreditation systems, and developing possible law school accreditation systems); Douglas W. Kmiec,

Professor Brian Tamanaha raised eyebrows across the country with his book *Failing Law Schools* in which he argues, among other things, that the ABA and AALS have entrenched the standards of elite law schools with regard to emphasis on faculty scholarship, teaching loads, curriculum, and admissions standards.⁴⁵ These entrenched standards, coupled with a pervasive fixation on rankings, have led to uniformity in legal education with most law schools requiring a similar three-year course of study taught by full-time academics.⁴⁶ Gone are the days when a law school could be content to offer less expensive and less time-consuming local or regional programs with a practice oriented mission.⁴⁷ The ABA Accreditation Committee has shown some sensitivity to these concerns as reflected in pending proposals to emphasize “outcomes” rather than “inputs,” to eliminate the LSAT requirement, and to reduce reliance on tenure as the preferred form of job security.⁴⁸

Law School Accreditation: Responsible Regulation or Barrier to Entry?, 11 TEX. REV. L. & POL. 377, 378 (2007) (describing flaws in ABA accreditation standards, and the view that they are “misguided and excessive” (internal quotation marks omitted)); Denise Rothbardt, *ABA Accreditation: Educational Standards and Its Focus on Output Requirements*, 2 J. GENDER RACE & JUST. 461, 462 (1999) (“[T]he ABA and its accreditation standards wield significant power within the legal community.”); George B. Shepherd, *No African-American Lawyers Allowed: The Inefficient Racism of the ABA’s Accreditation of Law Schools*, 53 J. LEGAL EDUC. 103, 104 (2003) (“[A]ll of the ABA’s diversity efforts ring hollow.”); Mathew D. Staver & Anita L. Staver, *Lifting the Veil: An Exposé on the American Bar Association’s Arbitrary and Capricious Accreditation Process*, 49 WAYNE L. REV. 1, 3–7 (2003) (discussing the implications of the ABA’s role as the “gatekeeper to the legal profession”).

⁴⁵ BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* 18–19 (2012).

⁴⁶ *Id.* at 20–21. Nancy Rapoport argues that there *are* differences in law schools but they are based on the privileges, networking opportunities, and preparedness of students. Nancy B. Rapoport, *Changing the Modal Law School: Rethinking U.S. Legal Education in (Most) Schools*, 116 PENN ST. L. REV. 1119, 1128 (2012). Students attending elite schools do not have to worry so much—doors will open for them because they went to elite schools (even if they are not particularly talented). *Id.* Students attending what she calls “modal” schools (the more frequently occurring schools) have different needs in order to be successful. *Id.* at 1136. Modal schools, Rapoport argues, should provide more and better learning opportunities that merge theory and practice and teach students to be good problem solvers. *Id.*

⁴⁷ See Rapoport, *supra* note 46, at 1135–36 (discussing improvements that could be made to modal schools). As one means of countering the “influences that have led to the elitist structure of law school rankings and hierarchy,” Professor Jon M. Garon proposed the creation of a National Association of Regional Law Schools, which would offer an alternative set of “appropriate educational goals [and standards] that will address the growing economic barriers to justice.” Jon M. Garon, *Take Back the Night: Why an Association of Regional Law Schools Will Return Core Values to Legal Education and Provide an Alternative to Tiered Rankings*, 38 U. TOL. L. REV. 517, 518, 526 (2007).

⁴⁸ See Janet W. Fisher, *Putting Students at the Center of Legal Education: How an Emphasis on Outcome Measures in the ABA Standards for Approval of Law Schools Might Transform the Educational Experience of Law Students*, 35 S. ILL. U. L.J. 225, 227 (2011) (discussing the final report of the Outcomes Measures Committee, which recommended that the current ABA Accreditation standards be reexamined and reframed “to reduce their reliance on input measures and instead adopt a greater and more overt reliance on outcome measures” (internal quotation marks omitted)); Jerome Organ, *Missing Missions: Further Reflections on Institutional Pluralism (or Its Absence)*, 60 J. LEGAL EDUC. 157, 167 (2010) (positing that “outcomes measures” included in proposed ABA accreditation standards will stimulate creativity and overcome influences that “push schools to a unitary model of

B. *Getting Out of the Rankings Game*

So where does this leave us? Is there another way to think about the role of law schools in our society? Is there a better way to understand our identities and missions beyond the atavism of self-preservation and competition for a position high up the food chain? A former law school dean who moved on to be President of Reed College—a college that refuses to participate in *USNWR* rankings as a matter of principle—has this to say about getting out of the rankings game:

By far the most important consequence of sitting out the rankings game, however, is the freedom to pursue our own educational philosophy, not that of some newsmagazine. Consider, for example, the relative importance of standardized tests. The SAT or ACT scores of entering freshmen make up half of the important “student selectivity” score in the *U.S. News* formula. Although we at Reed find SAT and ACT scores useful, they receive a good deal less weight in our admissions process. We have found that high school performance (which we measure by formula that weighs GPA, class rank, quality and difficulty of courses, quality of the high school, counselor evaluation, and so forth) is a much better predictor of performance at Reed. Likewise, we have found that the quality of a student’s application essay and other “soft variables,” such as character, involvement, and intellectual curiosity, are just as important as the “hard variables” that provide the sole basis for the *U.S. News* rankings. We are free to admit the students we think will thrive at Reed and contribute to its intellectual atmosphere, rather than those we think will elevate our standing on *U.S. News*’s list.⁴⁹

Consider the possibility that a law school might intentionally decide not to become famous, but rather to provide a path and vehicle for a diverse group of solid, public-service minded students to become skilled, ethical lawyers who want to improve society. Consider further that this diverse group will include non-traditional students, low-income students,

legal education that stifles innovation”); *ABA Proposes New Accreditation Standards*, ACCEPTED BLOG (Apr. 13, 2011), <http://blog.accepted.com/2011/04/13/aba-proposes-new-accreditation-standards/> (discussing proposed changes to ABA accreditation standards).

⁴⁹ Colin Diver, *Is There Life After Rankings?*, ATLANTIC MONTHLY, Nov. 1 2005, at 136, 137; see also Lani Guinier, Commentary, *Admissions Rituals as Political Acts: Guardians at the Gates of Our Democratic Ideals*, 117 HARV. L. REV. 113, 215–17 (2003) (discussing holistic approaches to admissions choices, including an understanding of the educational and societal values that underlie admissions choices).

single parents, students from historically marginalized groups, and others who could not gain entry into a top tier law school.⁵⁰ Such a school is likely to be a regional school and will want to avoid modeling itself after a “national” school.⁵¹ It will not easily achieve fame (at least via higher rankings) for a variety of reasons, including: (1) it will be admitting

⁵⁰ Brian Dickson, Former Chief Justice of the Supreme Court of Canada, stated:

I want to say a few words about the gatekeepers to legal education . . . namely those involved in the admissions process Ultimately, the ethos of the profession is determined by the selection process at law schools. In order to ensure that our legal system continues to fulfill its important role in Canadian society, it is necessary that the best candidates be chosen By “best” I mean more than just the most academically qualified. . . . [I]t is incumbent upon those involved in the admission process to ensure equality of admissions. . . . [L]aw schools . . . must be alert to the need to encourage people from minority groups and people from different difficult economic circumstances to join our profession.

Brian Dickson, *Legal Education*, 64 CAN. B. REV. 374, 377 (1986). In other words, law schools must ensure that all people have equal access to a legal career so that the legal system can benefit from the addition of ideas, values and concerns from groups who have previously been excluded from legal education and the legal profession. *See id.* (using the increase of females and their success in the legal profession as an example).

⁵¹ *See* Randolph N. Jonakait, *The Two Hemispheres of Legal Education and the Rise and Fall of Local Law Schools*, 51 N.Y. L. SCH. L. REV. 863, 901 (2007) (“Since local law schools train their students for a different sphere of the profession, local law schools are unlikely to adopt the reforms needed to serve their students better if the local schools simply follow the lead or adopt the values of the elite institutions. This will be difficult since faculties at all levels of law schools are dominated by products of elite and prestigious schools.”); *Mixon & Otto, supra* note 35, at 438 (comparing the value of variation in marketing and business models as applied to legal education). *Mixon and Otto* further state:

[N]ational law school behavior model does not fit regional needs. Accordingly, what passes as quality education for a national law school student may not meet the quality definition for a regional or local school. . . . [C]ompanies ineffectively “search for examples” to find a ready-made recipe they can follow instead of mapping their own route to quality. When regional law schools model their entire programs after a national law school benchmark, they ignore the differing needs of their regional customers. Their students may, for example, require a curriculum that provides some professional skills training and greater attention to class attendance and teaching competence.

Regional law schools face a potential crisis of uncertain duration and severity. After unprecedented growth, the bottom appears ready to fall out of law graduate employment. If national law schools begin to accept students who previously would have enrolled at regional schools and the legal employment market continues to shrink, regional and local law schools will experience even more difficulty placing their students. The only rational response is for these schools to improve their quality by delighting their customers (primarily applicants and students) so they succeed as grandly as Lexus did in the Mercedes market. Can regional and local law schools manage the crisis? This question essentially asks how (or whether) a law school can change. Substantial obstacles must be overcome.

Id.

applicants with lower LSATs and grades;⁵² (2) it will need to commit primarily to teaching rather than research and scholarship;⁵³ (3) it will have a difficult time attracting famous professors; (4) it will not have extra money to produce law porn; (5) its graduates may gravitate toward jobs in government, small firms, public service, and business rather than higher paying jobs with big firms; (6) it may have less resources than competing schools by virtue of holding down tuition in order to counter rising student debt; (7) some graduates may have to take the bar exam more than once; and (8) the school will not be much talked about by judges, lawyers, and professors across the nation who participate in ranking surveys.

Can such a school survive in an environment where its competitors are doing everything they can to get more recognition and higher rankings? Is it okay to be a lower-tier law school? Not surprisingly, the answer to the question is complicated and uncertain in a changing economy and legal culture. But the following factors are relevant⁵⁴: What is a school's raison

⁵² *Health Professions and Prelaw Center: Preparation for the Study of Law*, IND. UNIV., <http://hpplc.indiana.edu/law/law-prep8.shtml> (last visited Feb. 4, 2013) (explaining on a pre-law website that “[law schools] are looking for interesting and varied ‘raw material’ to work with: well-rounded, thoughtful, involved, reflective, ethical, hard-working, passionate, intellectually curious, experienced, mature, focused, and motivated people who have done interesting things with their lives”). This is a fitting description of qualities that a law school might seek out as an alternative to primarily relying on LSAT and GPA thresholds.

⁵³ There is a good deal of criticism of law schools' perceived neglect of teaching in favor of faculty scholarship. See, e.g., Henderson, *supra* note 9, at 65–66 (“Law schools generally fail to meet expectations about teaching. They neither offer incentives for good teaching nor even define it. The only consistent feedback on their teaching that law teachers receive comes from end-of-term student evaluations. Furthermore, law schools offer little, if any, teaching support to their faculty. Instead they encourage faculty to focus primarily on scholarship—researching, writing, and publishing—and they create, through the tenure process, a very real disincentive for faculty to expend more than minimal energy on teaching. In decisions on hiring, promotion, tenure, and salary, scholarship is the weightiest factor; significant publications more than make up for barely passable teaching.” (footnotes omitted)); Newton, *supra* note 35, at 120 (“The typical law school significantly values scholarship over teaching—which likely explains why adjunct law professors, who are hired only to teach, are typically paid only between \$3,000 and \$5,000 per three-credit-hour, semester-long course. Using that metric of value for law school instruction, it is reasonable to conclude that only a tiny fraction of a typical full-time doctrinal professor's annual salary is allocated to teaching duties. Thus, the bulk of a law professor's salary is for writing law review articles rather than compensating for teaching and ‘service’ duties.”). The criticism is apt to be overstated given the many schools and professors who clearly value teaching over other professional activities. Overemphasis on scholarship is not especially problematic at my own school, Gonzaga University School of Law, which highlights teaching through the Institute for Law Teaching and Learning and in the retention, promotion, and tenure review process. See *Curriculum Design and Reform*, INST. FOR LAW TEACHING & LEARNING, <http://lawteaching.org/curriculum/> (last visited Feb. 4, 2013) (stating that the two primary goals are “to serve as a clearinghouse for ideas to improve the quality of education in law school; and to support student-centered curriculum reform). Nonetheless, even the most passionate and accomplished teacher cannot afford to disregard the importance of traditional scholarship.

⁵⁴ These considerations are not dissimilar to those that come into play when deciding to seek and sustain a new law school. See Donald E. Lively, *The Provisional Approval Experience: Lessons for Legal Education in Darwinian Times*, 52 J. LEGAL EDUC. 397, 433 (2002) (discussing the agility law

d'être? What is the school's geographic location and regional demographics?⁵⁵ What is the school's history? Does the school have a mission that has been taken seriously and is known and respected by the desired applicant pool? What are the relationships between the law school and the larger university (if any), its alumni, the local and state bar associations, regional law firms, and courts? What are the regional prospects for graduate employment? Does the faculty have any tolerance for some flexibility with regard to job security and governance? Is there willingness on the part of faculty and staff to accept the challenge of admitting students who have the capacity to succeed but who may lack the conventional credentials to attend higher-ranked schools? Is there a willingness to acknowledge that the LSAT is not the only measure of who can succeed in law school or in the practice of law?⁵⁶ Are the faculty and administration confident and secure enough truly to commit to the goal of student-centered transformational education without worrying about rank? What is the degree of dependence on alumni largess and will alumni stop donating if they sense the law school is not committed to the goal of being a ranked, national law school?

Simply put, regardless of ranking, can a school's history, location, mission, faculty, relationships, and product create a steady stream of desired applicants who can succeed as lawyers and who can help pay the bills that are appropriate for carrying out the school's specific mission? If the answer is no, the school may have to do whatever is necessary to attract students—even if that effort leads the school away from a preferred identity.

The following are somewhat randomly chosen examples of lower tier law schools that appear to be successful and intentional in offering mission-based programs that are not geared toward achieving a higher rank. While these schools may make a virtue of necessity, and would no

schools must have during the accreditation process and how this flexible mindset must continue for a law school to stay competitive following changes in the legal job market).

⁵⁵ See Stewart E. Sterk, *Information Production and Rent-Seeking in Law School Administration: Rules and Discretion*, 83 B.U. L. REV. 1141, 1145–46 (2003) (“For many applicants, it is association with the brand name, rather than the education the student expects to receive or the cost associated with that education, that makes a school attractive. . . . Geography is a second factor that confers on most law schools some degree of monopoly power. For many law school applicants, the choice of law schools is limited by geographical factors often dictated by cost concerns or family commitments. Geography is especially important beyond the top twenty or so law schools where applicants may perceive that the lasting advantages of prestige will outweigh other issues. Many areas are served by only one law school or by one school in a particular ‘tier’ in the law school hierarchy.”).

⁵⁶ SHULTZ & ZEDECK, *supra* note 13, at 11 (analyzing alternatives to the LSAT to support law school admissions, and arguing that it is important for law schools to address the following questions: “How should they define merit and qualification? What is ‘fair’ allocation of scarce educational resources? How important is achieving racially and ethnically diverse classes, and how do we define ‘diversity?’ Should deprivation of economic and educational opportunity be considered?”).

doubt appreciate national recognition for their efforts, it is clear that they have chosen their own path as strong regional schools.

The University of District of Columbia David A. Clarke School of Law (“UDC-DCSL”) is the latest incarnation of a public law school in the nation’s capital that retained the essential mission of its predecessor, the Antioch School of Law. In present form, that mission is to: “[R]ecruit and enroll students from groups under-represented at the bar, provide a well-rounded theoretical and practical legal education that will enable students to be effective and ethical advocates, and represent the legal needs of low-income District of Columbia residents through the school’s legal clinics.”⁵⁷

UDC-DCSL seems to meet the requirements for succeeding at its mission without becoming too confused by a need to establish a national reputation or top tier ranking.⁵⁸ Its location and history within the District of Columbia give it demographic support to meet its diversity goals and its relationships with District government offices, courts, and non-profits provide ample opportunity to carry out its community service mission. Tuition is low—\$10,620 per year for DC residents.⁵⁹ Community relationships and faculty commitment to the school’s goals allow for hands-on legal education for students who might not otherwise have a chance to be lawyers.⁶⁰ While the school’s web page trumpets rankings achievements, those achievements are clearly in line with its stated mission: strong clinical programs and minority admissions.⁶¹

⁵⁷ *Facts About the School of Law*, UNIV. OF D.C., DAVID A. CLARKE SCH. OF LAW, <http://www.law.udc.edu/?page=Facts> (last visited Feb. 4, 2013) [hereinafter *Facts About UDC-DCSL*].

⁵⁸ See Derek Alphan et al., *Yes We Can, Pass the Bar; University of the District of Columbia, David A. Clarke School of Law Bar Passage Initiatives and Bar Pass Rates—From the Titanic to the Queen Mary!*, 14 U. D.C. L. REV. 9, 39–40 (2011) (explaining the school’s focused efforts on increasing bar passage rates for students).

⁵⁹ *Tuition & Fees for Entering Students*, UNIV. OF D.C., DAVID A. CLARKE SCH. OF LAW, <http://www.law.udc.edu/?page=Tuition> (last visited Feb. 4, 2013).

⁶⁰ See *Facts About UDC-DCSL*, *supra* note 57 (explaining the important role community service plays at the law school and describing the school’s admissions emphasis on public service).

⁶¹ *Id.* Other similarly missioned atypical public law schools opened their doors in the 2002–2003 academic year. Florida Agricultural and Mechanical University reintroduced its black law school years after it was closed in 1968 as a result of the Florida Legislature’s vote to close the school and open one at Florida State University, a predominantly white institution. The school has a civil rights niche and black law students make up the majority of its student population. See *About FAMU: History*, FLA. A&M UNIV. COLL. OF LAW, <http://www.law.famu.edu/go.cfm/do/Page.View/pid/5/t/History> (last visited Feb. 4, 2013) (showing information about the school’s history and diversity; *Prospective Students: 1L Class Profile*, FLA. A&M UNIV. COLL. OF LAW, <http://www.law.famu.edu/go.cfm/do/Page.View/pid/13/t/1L-Class-Profile> (last visited Feb. 4, 2013) (showing information about the school’s diversity profile for the entering class). Florida International University in Miami focuses on international law and enrolls mostly Hispanic students. See *Mission Statement*, FLA. INT’L UNIV., <http://law.fiu.edu/prospective-students/mission-statement/> (last visited Feb. 18, 2012) (describing the school’s mission around diversity and international legal practice). The expectations for these schools are not just to increase the number of black and Hispanic attorneys, but also to increase the number of attorneys who will advocate and represent the interests of the black and Hispanic communities. See

An example of a lower-ranked law school in the less populated and less diverse American midlands is the University of South Dakota (“USD”). As the only law school in the state, in a location that might not draw students from throughout the country, USD’s explicit mission states: “The mission of the University of South Dakota School of Law is to prepare lawyers and judges for the federal, state, and American Indian justice systems in South Dakota and to provide South Dakota residents . . . an affordable legal education.”⁶²

The law school offers a low-cost legal education and appears not to worry too much about being a top tier school. Nonetheless, its graduates populate the state’s Supreme Court and trial benches and the school has produced top trial lawyers and experts in Indian Law for many years.⁶³ Nor has a lower ranking prevented USD from inaugurating a very innovative summer program for the study of comparative law in China.⁶⁴

Southwestern School of Law in Los Angeles is an example of a successful, private mission-oriented, albeit lower-ranked, law school on the West coast. While its explicit mission is fairly generic,⁶⁵ it is clear that the school prides itself on a history that has opened the law school’s doors to minorities, that has innovated by structuring different J.D. programs, including an accelerated program, and that has taken advantage of the local entertainment industry in terms of focusing curriculum and relationships.⁶⁶

Florida Coastal School of Law, a newer private low-cost, fourth tier law school in Jacksonville, is built partly around a mission that demands faculty, staff, and administration to commit to collaboration, congeniality,

Sara Osborne, *These Are Not Our Rules: A Public Interest and Women Oriented Law School to Improve the Lives of Women Both Within and Outside the Legal Profession*, 46 HOWARD L.J. 549, 549–50 (2003) (discussing how the new Florida schools are models for creation of a public interest law school devoted to teaching about women’s issues).

⁶² *About Us*, UNIV. OF S.D. SCH. OF LAW, <http://www.usd.edu/law/aboutus.cfm#mission> (last visited Feb. 4, 2013).

⁶³ FRANK POMMERSHEIN, CHAIR, INDIAN LAW COMM., PROFESSOR OF LAW UNIV. S.D. SCH. OF LAW, SOUTH DAKOTA TRIBAL COURT HANDBOOK, at i, iv (3d ed. 2006), available at <http://www.sdjudicial.com/uploads/downloads/1Book/IndianLaw%20Handbook.pdf>; *American Indian Law Program*, UNIV. OF S.D. SCH. OF LAW, <http://www.usd.edu/law/ail.cfm> (last visited Feb. 20, 2012); *Supreme Court*, S.D. UNIFIED JUD. SYS., <http://www.sdjudicial.com/sc/Default.aspx> (last visited Feb. 4, 2013).

⁶⁴ *Critchlow Surveys China Study Abroad Programs*, GONZAGA UNIV. SCH. OF LAW NEWS (Sept. 22, 2011), <http://www.law.gonzaga.edu/blog/2011/news/faculty/critchlow-study-abroad/>.

⁶⁵ See *About Southwestern Mission and History*, SW. SCH. OF LAW, <http://www.swlaw.edu/about/hist> (last visited Feb. 1, 2013) (“The mission of Southwestern Law School is to produce highly skilled graduates who are capable of integrating theory and practice to meet the challenges of the twenty-first century. Through excellent faculty committed to promoting the highest level of professionalism, Southwestern seeks to create a vibrant academic community with a student-centered approach to legal education.”).

⁶⁶ *About Southwestern*, SW. SCH. OF LAW, <http://www.swlaw.edu/about> (last visited Feb. 1, 2013).

and humility.⁶⁷ The school has deliberately focused on creating a culture of personal and team values that impacts students in a positive way. According to the school's website, faculty and staff must commit to: Vulnerability-based Trust; Healthy Conflict; Clear Commitments; and Accountability.⁶⁸ Florida Coastal's former dean has said: "No motive was more central to FCLS's founding than the aim of creating an academic community free of the rancor, professional jealousies, predatory interaction, and petty-mindedness that have become entrenched norms for many established faculties."⁶⁹ While these characteristics are not incompatible with a higher ranking, a commitment to achieve and maintain such a culture could very well get in the way of achieving status and rankings measured by different values.

St. Mary's School of Law in San Antonio, Texas is the oldest Catholic law school in the American Southwest.⁷⁰ It admits a large number of minority students, especially Hispanics.⁷¹ Although a fourth tier school, it boasts a faith-based mission, an emphasis on global education and practical skills, and a range of modern interdisciplinary study and joint degree programs.⁷² The law school manages to keep its tuition relatively low while admitting lower LSAT students who perform very well on the Texas bar exam.⁷³

Finally, CUNY School of Law in Flushing, New York is widely recognized for its success at delivering low-cost legal education based on a very clear mission: "[T]o graduate outstanding public interest attorneys and to enhance the diversity of the legal profession."⁷⁴ CUNY's website emphasizes that the school "trains lawyers to serve the underprivileged and

⁶⁷ *Dean's Message*, FLA. COASTAL SCH. OF LAW, <https://www.fcsl.edu/content/deans-message> (last visited Feb. 3, 2013); *Personal Values*, FLA. COASTAL SCH. OF LAW, <https://www.fcsl.edu/coastalcareers/values/personal> (last visited Feb. 3, 2013).

⁶⁸ *Team Values*, FLA. COASTAL SCH. OF LAW, www.fcsl.edu/coastalcareers/values/team (last visited Feb. 1, 2013).

⁶⁹ Lively, *supra* note 54, at 421.

⁷⁰ *At a Glance*, ST. MARY'S UNIV. SCH. OF LAW, <http://www.stmarytx.edu/law/index.php?site=stMarysLawAtAGlance> (last visited Feb. 1, 2013) [hereinafter *At a Glance*, ST. MARY'S]; *St. Mary's University School of Law*, TOP-LAW-SCHOOLS.COM (July 2010), <http://www.top-law-schools.com/st-marys-school-of-law.html>.

⁷¹ *St. Mary's Ranks Fourth in Hispanic Law Degrees*, ST. MARY'S UNIV. SCH. OF LAW (Dec. 22, 2010), http://www.stmarytx.edu/news/top-stories/index.php?headline=St_Marys_Ranks_4th_in_Hispanic_Law_Degrees; *Why St. Mary's*, ST. MARY'S UNIV. SCH. OF LAW, <http://www.stmarytx.edu/law/index.php?site=whyStMarysLaw> (last visited Feb. 1, 2013).

⁷² *At a Glance*, ST. MARY'S, *supra* note 70; *Points of Pride*, ST. MARY'S UNIV. SCH. OF LAW, <http://www.stmarytx.edu/law/index.php?site=pointsOfPrideLaw> (last visited Feb. 1, 2013).

⁷³ Melissa Ludwig, *St. Mary's Sees 97% Pass Bar, Dean Credits New Program for Highest Rate in 25 Years*, SAN ANTONIO EXPRESS-NEWS (May 7, 2011, 12:04 AM), <http://www.mysanantonio.com/news/education/article/Near-perfect-bar-exam-passage-rate-at-St-Mary-s-1369033.php>; *Tuition and Fees*, ST. MARY'S UNIV. SCH. OF LAW, <http://www.stmarytx.edu/law/index.php?site=stMarysLawTuitionFees> (last visited Feb. 3, 2013).

⁷⁴ CUNY SCH. OF LAW, <http://www.law.cuny.edu/index.html> (last visited Feb. 1, 2013).

disempowered and to make a difference in their communities.”⁷⁵ The school boasts a very diverse student body that includes many non-traditional students.⁷⁶ The faculty is also very diverse.⁷⁷ CUNY is not highly ranked by *USNWR*, but it has strong clinical programs and great success at placing students in public interest and public service jobs following graduation.⁷⁸

IV. TEN STRATEGIES TO ESCAPE THE TYRANNY OF RANKINGS

Assuming a law school makes a decision to de-emphasize rankings in favor of more authentic, student-centered, and public-interest minded missions, the following ten strategies should be considered to optimize success:

1. *Draft and embrace a mission statement that is honest and realistic, consistent with the law school's history, location and purpose, and that appeals to the desired applicant pool.* This obviously requires discipline, focus, and effort on the part of deans and faculty. It requires law schools to resist the temptation to produce vanilla flavored mission statements that are generic, self-promoting, and redolent with “national” law school rhetoric. ABA accreditation requires law schools to undertake periodic self-studies as part of sabbatical reviews.⁷⁹ Schools might use these opportunities to articulate missions that are geared toward context-specific, value-driven goals for professional education. If nothing else, such a discussion about mission should produce explicit and honest statements about the importance of rankings and image, and what a law school is willing to do and not do to move up the ladder. For law schools attached to universities, the larger university should be aware of and supportive of the specific mission as there may be times when the university is called upon to give the law school financial and moral reinforcement.

2. *Use alternative admissions protocols.*⁸⁰ Former University of

⁷⁵ *About*, CUNY SCH. OF LAW, <http://www.law.cuny.edu/about.html> (last visited Feb. 1, 2013).

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ See AM. BAR ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 12 (2011), available at http://www.americanbar.org/groups/legal_education/resources/standards.html (“Before each site evaluation visit the dean and faculty of a law school shall develop a written self study, which shall include a mission statement. The self study shall describe the program of legal education, evaluate the strengths and weaknesses of the program in light of the school’s mission, set goals to improve the program, and identify the means to accomplish the law school’s unrealized goals.”).

⁸⁰ See SHULTZ & ZEDECK, *supra* note 13, at 53–55 (finding that LSAT and undergraduate grade point average were not good predictors of lawyer performance and suggesting that alternative predictors be explored). Professor Newton supports the broadening of admissions protocols:

Oregon School of Law Dean Rennard Strickland has argued why and how law schools might reconsider their admissions approach:

When we define our students primarily by their numbers, the numbers also define us. The first step in a reevaluation of our admissions processes, and a movement away from over-reliance on the numbers, must be a careful examination of our institutional character. We must, at each law school, ask ourselves who we are and who we wish to become. We need to understand our special institutional mission. We all like to think that our law schools are more than their *U.S. News* rankings, but we are not always good at defining ourselves, at pointing out the differences that exist among us, and at seeking applicants and students who share our values and goals. Students contribute an enormous amount to the life and character of a law school. Our selection of them must be

The LSAT should be jettisoned, or at least retooled, so as to serve as a better predictor of success as a lawyer. A recent study by two professors at the University of California at Berkeley makes a convincing case for abandoning or modifying the LSAT as a significant part of the admissions calculus for law school. As they note, and as the Law School Admission Council appears to confirm, the LSAT does not accurately predict an applicant's overall success in law school, but instead, only predicts first-year grades. More importantly, the LSAT does not predict success in the legal profession, because it assesses only a narrow range of cognitive competencies. Therefore, law schools should either abandon their heavy reliance on applicants' LSAT scores or, assuming it were possible, replace it with some type of assessment that considers the many types of intelligence needed to be a competent attorney.

The law school admissions process should give meaningful consideration to other types of intelligence besides those academic and analytical abilities tested in written form. In addition to "hard" analytical and cognitive skills, the successful practice of law requires many "soft" competencies such as "emotional intelligence," maturity, a strong work ethic, and integrity. The law school admissions process, which currently focuses almost exclusively on undergraduate GPA and LSAT scores (both of which are largely the product of written testing), should incorporate a meaningful assessment of an applicant's potential in these other areas. Such an assessment need not be done (and perhaps could not be done) in a standardized test. Instead, it could occur through an evaluation of a candidate's strengths and weaknesses evinced in other facets of his or her life, such as two years or more of full-time work experience between college and law school. Additionally, law schools should conduct mandatory interviews of applicants, either live or via video conference, in order to assess their interpersonal and oral communication skills.

Newton, *supra* note 35, at 63–65 (footnotes omitted). “In an analogous manner, Indiana Law Professor Bill Henderson and his colleagues at Lawyer Metrics are attempting to offer law firms a scientific, or evidence-based, method to hire and promote attorneys based on the types of competencies needed for a successful legal career.” *Id.* at 64 n.35; see also *What We Offer*, LAWYER METRICS, <http://www.lawyermetrics.com/what-we-offer.html> (last visited Feb. 3, 2013) (discussing services that Lawyer Metrics provides).

informed by our sense of purpose. Unless our mission statement reads, “We seek to be a unidimensional law school whose students have the highest achievable LSAT scores,” the numbers cannot help us as much as we might like.⁸¹

Schools seeking a way out of the rankings game might ask the following question with regard to the obsession for higher LSAT profiles: How is it that students admitted with comparatively low LSAT scores thirty, forty, and fifty years ago, and who went on to become perfectly fine lawyers and judges, could be deemed unqualified for admission today?⁸² Should we

⁸¹ Rennard Strickland, *Rethinking Fairness, Diversity, and Appropriate Test Use in Law School Admission Models: Observations of an Itinerant Dean*, 31 U. TOL. L. REV. 743, 745–46 (2000). Strickland also states:

By shifting the focus away from traditional conceptions of individual statistical merit, and toward a process of constructing a class, admissions decision-makers can begin to reduce their reliance on the numbers while enriching the learning environment for all. Such an approach might also begin to erode the sense of entitlement to a seat in law school among those who believe their grades and test scores are all that should, or do, matter. This sense of entitlement clearly lurks beneath today’s anti-affirmative-action litigation; its erosion might help to forestall future suits and change the national dialogue about affirmative action.

Id. at 746.

⁸² See Johnson, Jr., *supra* note 43, at 324 (explaining that at the inception of LSAT usage, the LSAT score was not meant to be the sole criterion by which students were evaluated for admission but “that did not prevent the score from becoming the most important factor in the admissions decision”). In the 1950s and 1960s, white students were routinely accepted at law schools throughout the country with LSAT scores that, years later, were deemed insufficient for admission of minority students:

By the late 1960s and early 1970s, the LSAT was firmly established as the most influential factor in law school admissions decisions. While in 1961 only eight ABA schools had entering classes with a median LSAT of 600 or above, by 1972, it was estimated that more than 100 ABA schools had entering classes with median LSAT scores of 600 or higher. Moreover, in 1961, the median LSAT score at 81% of law schools was below 485, whereas by 1975, 510 was the lowest mean LSAT score of any ABA school. By 1980, the LSAT mean for students entering the University of Illinois College of Law (679) had caught up to the LSAT median for Harvard’s class in 1969.

....

An overlooked irony amidst all these trends is that while critics argued that affirmative action meant admitting “unqualified” and “unprepared” students and led to the “general debasement of academic standards,” admission standards were relatively more relaxed during the 1950s and early 1960s, when White men maintained virtually total control over access to legal education Yet nationally, these White males of the 1950s and early 1960s, the majority of whom would have been denied access to an ABA education under the more extreme competition that was the norm by the early 1970s, apparently performed well enough as the judges, professors, government officials, and law firm partners of their generation.

not be honest in acknowledging that our rejection of some applicants is based not on their qualification to succeed in law school or practice law but on their qualification to elevate admission profiles and rankings? In fact, there is an increasing movement toward this view. Some law schools are now taking advantage of an ABA waiver to admit students from their own undergraduate programs based on the undergraduate record and grade point average alone.⁸³ The ABA Standards Review Committee is also debating a proposal to eliminate the LSAT requirement for law school applicants.⁸⁴

3. *Create strong academic and bar exam support programs together with a campus culture that is welcoming and supportive to students from diverse backgrounds.*⁸⁵ In addition to rankings, one reason that law schools prefer to accept students whose credentials reflect high achievement on standardized tests is that “high achievement” is deemed to diminish the need for academic, much less cultural support. If a law school sees its mission as purely an intellectual exercise involving the transference of information to especially gifted students, it will be limited in its ability to impact the law school community and the larger society by giving opportunities to students who can enrich the learning environment and the legal profession. For “high achieving” students, there is presumed to be less individual face time with students, less need to assess individual

William C. Kidder, *The Struggle for Access from Sweatt to Grutter: A History of African American, Latino, and American Indian Law School Admissions, 1950–2000*, 19 HARV. BLACKLETTER L.J. 1, 18–19 (2003) (footnotes omitted).

⁸³ Chuck Newton, *Get Accepted to Law School Without Taking the LSAT*, CHUCK NEWTON RIDES THE THIRD WAVE (Apr. 8, 2009), <http://stayviolation.typepad.com/chucknewton/2009/04/get-accepted-to-law-school-without-taking-the-lsat.html> (stating that as of 2009, currently three ABA-approved law schools are now participating in a “pilot program to admit honor students without the need of the student taking the LSAT”).

⁸⁴ Karen Sloan, *Possibility of a Voluntary LSAT Reignites Debate over Test’s Value*, NAT’L L.J. (Feb. 1, 2011), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202479912701>.

⁸⁵ See Jean Boylan, *Crossing the Divide: Why Law Schools Should Offer Summer Programs for Non-Traditional Students*, 5 SCHOLAR 21, 26 (2002) (showing that many non-traditional law school students need greater educational opportunities that help them to reach the same understanding of law school teaching methods that traditional students come to law school understanding); Johanna K.P. Dennis, *Ensuring a Multicultural Educational Experience in Legal Education: Start with the Legal Writing Classroom*, 16 TEX. WESLEYAN L. REV. 613, 632–34 (2010) (describing Northeastern University School of Law’s mandatory first-year writing course, which teaches students to immerse themselves in issues of difference by focusing on students, diverse curriculum, cultural media materials, law school support, and constant student assessment); Kristine S. Knaplund & Richard H. Sander, *The Art and Science of Academic Support*, 45 J. LEGAL EDUC. 157, 158–59 (1995) (illustrating that the best way to help diversity students acclimate to law school is by providing academic support programs that will allow them to “catch up with their classmates and to equip them for success”); Cynthia Schmidt & Ann L. Iijima, *A Compass for Success: A New Direction for Academic Support Programs*, 4 CARDOZO PUB. L. POL’Y & ETHICS J. 651, 652 (2006) (explaining how the focus of academic support programs has changed from academic support to emotional support to a current trend in focusing on both academic and emotional support, specifically to students of color).

progress, less advising and counseling, less concern about creating welcoming and sensitive campus cultures, and less concern about bar passage rates and job placement. But for those schools who intentionally undertake to open their doors to students who may not have a chance to go to law school elsewhere, there is a compelling need to tailor the law school academic and extracurricular culture to the needs of these students. Summer programs, academic support, and bar exam support programs have all been successful in reducing attrition and raising bar passage rates.⁸⁶

4. *Establish a mix of faculty: many will have job descriptions that emphasize teaching specialties and mentoring; some will emphasize scholarship; still others will have a conventional mix of teaching and scholarship responsibilities. Whatever the mix, it should be geared towards meeting the educational goals of the school, and student needs, as opposed to some notion of what happens at “national” law schools.* The “one size fits all” approach to faculty hiring and expectations is something that law schools need to alter if they seriously hope to adapt to modern challenges. If a school values excellent teaching or preparing students to be “practice ready,” it should deploy resources and incentives in such a way as to advance these interests.

5. *Make budget decisions that prioritize student success.* In an era of increased competition for students and reluctance to increase tuition, law school budgets will be challenged by decreased revenues. All proposed expenses and budget items should be evaluated by asking the question: How does this expense benefit students? While many expenses will benefit multiple constituents (e.g., faculty, staff, administrators, and alumni), these expenses should be considered low priority if they do not directly benefit students.

6. *Hire adjunct and contract professors to adjust teaching resources to changing curriculum and budget needs.*⁸⁷ An institutional model that is

⁸⁶ See Alphan et al., *supra* note 58, at 10 (explaining that the bar passage rate at the UDC-DCLSL improved as a result of a “wide range of academic support and bar passage assistance”); Boylan, *supra* note 85, at 26 (describing how non-traditional students must be educated in order to succeed in law school because they enter law school at a disadvantage that could be curbed with the help of support from the law school in order to “give these students a fair chance at success in law school”); Schmidt & Iijima, *supra* note 85, at 688 (demonstrating that the mandatory program for at-risk students at William Mitchell College of Law resulted in higher grades for these students than their counterparts who were not enrolled in the course and that law school academic support programs should be mandatory).

⁸⁷ See Paul L. Caron, *ABA Minority Proposal Softens Removal of Tenure as Accreditation Standard*, TAXPROF BLOG (Mar. 22, 2011), http://taxprof.typepad.com/taxprof_blog/2011/03/aba-softens.html (explaining that having tenured professors should not be a factor in law school accreditation and that there should be some limited time when faculty members are appointed as adjunct professors).

closely and perpetually tied to the concept of tenure will not be able to innovate, adapt, and cut back as easily as one that is based on employment arrangements that allow for budget and curriculum flexibility.⁸⁸ This proposition is admittedly controversial, fraught with layers of political, philosophical, and personal baggage, but the forces now acting upon higher education may not allow continued reliance on a system of job security that does not always translate into productivity and efficiency. The notion of lifetime appointments is almost unheard of outside the world of higher education and the federal judiciary. Academic freedom can and is guaranteed by employment contracts and university policy. Long-term contracts should be sufficient to attract competent teachers and scholars whose interest is educating law students for success.⁸⁹

7. *Choose faculty who are committed to teaching and enhancing student success.* A regional school that is no longer tied to rankings as a major influence can reform its hiring process to ensure that it is attracting and incentivizing people who have the professional experience, interpersonal skills, and career interests that directly support student success and curriculum needs. This may enable a school to consider recruitment of new teachers outside the normal AALS framework. It may allow schools to encourage and retain the services of local attorneys who love teaching and are committed to students, but who have less interest or time for traditional academic pursuits.

8. *Develop strong relationships with undergraduate schools and other organizations that are willing to work on pipeline programs for diverse students.*⁹⁰ Regional schools are uniquely situated to build relationships

⁸⁸ See David Barnhizer, *Redesigning the American Law School*, 2010 MICH. ST. L. REV. 249, 250–51 (2010) (illustrating that many law professors who thought they would have relatively comfortable jobs in teaching law may soon find themselves in a situation that does not have tenure as an option and requires a heavy course load in order to meet the changing needs of legal education).

⁸⁹ The fact that tenure is a hugely attractive and cemented feature of legal education is not the same as saying there would be no competent law professors without tenure. We all work every day with extraordinary teachers who work in classrooms, clinics, and libraries year in and year out without the benefit of tenure, some without the benefit of long-term contracts. Experience in recruiting and hiring new teachers locally and nationally demonstrates that there is an ample supply of talented, smart, and hard-working lawyers who want to teach. We know that part-time programs, night schools, and full-time programs have historically relied upon gifted part-time teachers and adjuncts who have produced generations of skilled law school graduates. Law schools will always need to ensure fairness, respect, and dignity in all dimensions of employment. Tenure is not the only way to do so.

⁹⁰ See Elizabeth Rindskopf Parker & Sarah E. Redfield, *Law Schools Cannot Be Effective in Isolation*, 2005 BYU EDUC. & L.J. 1 app. at 78 (2005) (noting that law schools need to be involved in preparing students earlier in their education to pursue a career in law); Laura Rothstein, *Shaping the Tributary: The Why, What, and How of Pipeline Programs to Increase Diversity in Legal Education and the Legal Profession*, 40 J.L. & EDUC. 551, 554 (2011) (providing an examination of how national conferences regarding diversity pipeline programs have expanded awareness of program models which has resulted in a growth in pipeline programs); *The ABA Council for Racial and Ethnic Diversity in the*

with local colleges, high schools, civic and cultural organizations, and other interest groups who are in a position to identify and support students who may have an interest in attending law school. Diverse students frequently come from backgrounds that are not privileged and that sometimes limit the ability or desire of a young person to imagine himself attending a faraway professional school. These students might nonetheless be motivated to think about attending a local school that they have become familiar with and that has reached out to them in meaningful and supportive ways.

9. *Foster strong relationships with local and regional alumni, courts, government agencies, law firms, and bar associations (all of which can promote the school and provide work, externship, mentorship, and pro bono opportunities for students).*⁹¹ James Backman, a Brigham Young University Law School professor with substantial experience in community based legal education, states:

In many ways, the law school community has the ideal context for creating community/law school partnerships. Law schools are one of the three primary institutions in our legal system along with the courts and the bar associations. As such, we have clearly identified partners keenly interested

Educational Pipeline, AM. BAR ASS'N, http://www.americanbar.org/groups/diversity/diversity_pipeline.html (last visited Feb. 2, 2012) (publishing a variety of tools to help racially and ethnically diverse students to find sponsorship opportunities and legal opportunity scholarship awards); *Presidential Advisory Council on Diversity in the Profession*, AM. BAR ASS'N, http://www.americanbar.org/content/dam/aba/migrated/2011_build/diversity/pipeline_diversity_resolution.authcheckdam.pdf (last visited Feb. 2, 2013) (explaining the need to work with elementary and secondary schools to encourage college applications of minority students, support pre-law programs to attract minority students to law school, work to reduce high attrition rates of minorities in law school, and work to ensure that the bar exam does not impact bar passage rates of minority students).

⁹¹ See James H. Backman, *Law Schools, Law Students, Civic Engagement, and Community-Based Research as Resources for Improving Access to Justice in Utah*, 2006 UTAH L. REV. 953, 954 (2006) [hereinafter Backman, *Law Schools*] (providing a brief explanation of community-based research during which students "receive learning opportunities through research assignments connected to the community"); see also James Backman, *Externships and New Lawyer Mentoring: The Practicing Lawyer's Role in Educating New Lawyers*, 24 BYU J. PUB. L. 65, 65 (2009) (discussing the connection between bar association mentoring programs and law school externship opportunities); Lawrence K. Hellman, *Conceptualizing a Law School as an Integral Part of the Legal Profession*, 36 U. TOL. L. REV. 73, 74-75 (2004) (discussing intentional relationship building between law schools and local and state bar associations); *Moderate Means Program FAQs*, WASH. ST. BAR ASS'N, <http://www.wsba.org/Legal-Community/Volunteer-Opportunities/Public-Service-Opportunities/Moderate-Means-Program/Moderate-Means-Program-FAQ> (last visited Feb. 2, 2013) (explaining the Moderate Means Program, a partnership program with the Washington State Bar Association and the three Washington law schools, which teams law students with local attorneys to assist lower income clients in the areas of housing, consumer, and family law). Included in this program is Gonzaga University School of Law, my own school, which also takes advantage of the substantial numbers of lawyers and judges in Eastern Washington who are Gonzaga alumni and who are very supportive of current law students.

in our students, who are available to provide meaningful community-based learning opportunities. Lawyers working in the non-profit community, including legal service attorneys, have strong ties to law schools as alumni, in recruiting recent graduates, in supervising students in credit-bearing externships and clinics and paid clerkships, and through many opportunities to participate in law school-sponsored events, programs, and continuing education sessions.⁹²

10. *Focus recruitment and marketing on geographical areas and demographic groups that make sense.* Regional and local schools generally know where the bulk of their applicants are likely to be found. While regional schools will receive applications from students throughout the country and abroad, scarce admissions and recruitment resources should target potential applicants who are most likely to attend the law school and who the law school most desires to enrich the law school student population.

There is no single competitive formula or strategy generally applicable to all law schools. There are large-scale or macro-systemic factors that will have differential impacts on most law schools. But there are also context specific micro-systemic dynamics that depend on factors such as a particular school's national status or lack thereof, geographic location, applicant and employment markets served, public or private funding stresses, and number of competing institutions in the specific territorial or employment niche markets.⁹³

V. CONCLUSION: LOOKING FORWARD

There is broad consensus that legal education must change in response to challenges posed by student debt, the economy, and a changing profession.⁹⁴ The number of applications to law school is decreasing.⁹⁵

⁹² Backman, *Law Schools*, *supra* note 91, at 979–80 (footnote omitted).

⁹³ Barnhizer, *supra* note 88, at 303 (footnote omitted).

⁹⁴ *See id.* at 250–53 (describing the various ways in which law schools must change in order to adapt to vastly different legal markets due to the economic downturn currently in the United States); David M. Moss, *Legal Education at the Crossroads*, in *REFORMING LEGAL EDUCATION: LAW SCHOOLS AT THE CROSSROADS* 1, 8 (David M. Moss & Debra Moss Curtis eds., 2012) (providing an explanation that the legal education market is poised to make great strides in reforming legal education because of its prior successes as long as the educational component of law is open to such change); *Legal Education and Professional Development—An Educational Continuum: Report of the Task Force on Law Schools and the Profession—Narrowing the Gap*, 1992 A.B.A. SEC. ON LEGAL EDUC. & ADMISSIONS B. 327 (providing the following recommendations: “A. Disseminating and Discussing the Statement of Skills and Values; B. Choosing a Career in Law and a Law School; C. Enhancing Professional Development During the Law School Years; D. Placing the Transition and Licensing

We may see curbs on federal student lending.⁹⁶ Technology and innovative teaching strategies are changing the traditional classroom.⁹⁷

Process in the Educational Continuum; E. Striving for Professional Excellence After Law School; F. Establishing an American Institute for the Practice of Law”); *see also* ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 283 (2007) (providing three principles of best practices as outlined: “1. The school is committed to preparing its students to practice law effectively and responsibly in the contexts they are likely to encounter as new lawyers. 2. The school clearly articulates its educational goals. 3. The school regularly evaluates the program of instruction to determine if it is effective in preparing students for the practice of law”); WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 12 (2007) (providing a plan for a more integrated legal education focused on fostering legal education and practical legal experiences); TAMANAHA, *supra* note 45, at ix–xiii (providing the view that the current law school model is untenable and must change); Steven C. Bennett, *When Will Law School Change?*, 89 NEB. L. REV. 87, 90 (2010) (advancing the notion that the demand for changes in legal education must come from professionals who are seeking a greater focus on ethics and professionalism); Bourne, *supra* note 15, at 651 (explaining that the fiscal crisis of 2008 indicates that the time for legal educational reform, especially as related to student debt, is now); Lauren Carasik, *Renaissance or Retrenchment: Legal Education at a Crossroads*, 44 IND. L. REV. 735, 736–37 (2011) (emphasizing that now is the time for changes to the legal educational system and urging a greater emphasis on critically examining how legal education can be restructured even if it is at the cost of legal academia); Jason M. Dolin, *Opportunity Lost: How Law School Disappoints Law Students, The Public, and The Legal Profession*, 44 CAL. W. L. REV. 219, 220–21 (2008) (explaining that the main problem with legal education is that law schools are producing too many lawyers who are not taught how to practice); Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 41 (1992) (explaining that “if law schools continue to stray from their principal mission of *professional* scholarship and training, the disjunction between legal education and the legal profession will grow and society will be the worse for it”); Henderson, *supra* note 9, at 50 (providing the idea that law schools are the perfect vehicle by which the legal profession can pull itself up and begin to instill particular legal norms and culture); Daniel J. Morrissey, *Saving Legal Education*, 56 J. LEGAL EDUC. 254, 255 (2006) (describing how most law school students bear most of the monetary burden that has allowed schools to expand and that law schools are now at a critical juncture in which they must now turn and help students); Newton, *supra* note 35, at 60 (describing his vision of a reformed law school system as one that focuses on “better prepar[ing] law students to become competent, ethical, and employable members of the legal profession”); John O. Sonsteng et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCHELL L. REV. 303, 315–20 (2007) (providing a detailed evaluation of all the shortcomings of the current framework of law schools).

⁹⁵ Elie Mystal, *The Early Numbers on Law School Applications*, ABOVE THE LAW (Jan. 20, 2012, 4:35 PM), <http://abovethelaw.com/2012/01/the-early-numbers-on-law-school-applications/> (“The [LSAC] report indicates that as of 1/13/12 ABA [law school] applicants are down 16.7% and ABA applications are down 15.3% from 2011. The report also indicates applicants to Canadian law schools are up 4.4% and applications are up 5.4% from 2011.”).

⁹⁶ William D. Henderson & Rachel M. Zahorsky, *The Law School Bubble: How Long Will It Last if Law Grads Can’t Pay Bills?*, A.B.A. J., Jan. 2012, at 30, 32 (“Heavy loans now threaten to consume the future earnings and livelihood of the nation’s young lawyers. . . . Very few critics . . . have examined the part played by the federal government through its student loan policies in creating a law school bubble that may be on the verge of bursting.”); *see also* Newton, *supra* note 35, at 61–62 (suggesting that intervention by the federal government “in the form of reducing the amount of federal student loans available to law students and changing the antitrust and federal educational laws” will encompass some of the necessary changes for meaningful and lasting reform).

⁹⁷ *See* Eugene Clark, *Looking Forward: Challenges Facing Legal Education in the 21st Century*, 3 PHOENIX L. REV. 461, 462, 467 (2010) (discussing trends that will change the nature of legal education and how technology can optimize learning); Pearl Goldman, *Legal Education and Technology II: An Annotated Bibliography*, 100 LAW LIBR. J. 415, 418–519 (2008) (providing an

Law schools are likely to experiment with a range of J.D. models—from part-time or accelerated programs to online and remote externship experiential learning.⁹⁸ Accreditation standards are being revised by the ABA.⁹⁹ Schools will need to make decisions about how to prepare students for cross-jurisdictional and global practice.¹⁰⁰ Choices will have to be made about how to properly balance skills, specialization, and interdisciplinary learning opportunities.¹⁰¹ A forward-thinking law school might want to reinvent itself by providing a menu of law-related educational products, from paralegal certificates and preparation for

annotated bibliography of hundreds of sources that examine the impact of technology on legal education); Geoffrey Christopher Rapp, *Can You Show Me How To . . . ? Reflections of a New Law Professor and Part-Time Technology Consultant on the Role of New Law Teachers as Catalysts for Change*, 58 J. LEGAL EDUC. 61, 62 (2008) (discussing the ways in which technology has changed legal education); Nicolas P. Terry, *Bricks Plus Bytes: How “Click-and-Brick” Will Define Legal Education Space*, 46 VILL. L. REV. 95, 108 (2001) (discussing how technology has changed the law school classroom and legal education and research).

⁹⁸ See Margaret M. Barry et al., *Clinical Education for This Millenium: The Third Wave*, 7 CLINICAL L. REV. 1, 53–54 (2000) (addressing the future of clinical legal education); Catherine R. Dunham & Steven I. Friedland, *Portable Learning for the 21st Century Law School: Designing a New Pedagogy for the Modern Global Context*, 26 J. MARSHALL J. COMPUTER & INFO. L. 371, 372–73 (2009) (suggesting that a more portable learning environment should be utilized by law schools); Joyce Sterling, *The Evolution of J.D. Programs—Is Non-Traditional Becoming More Traditional?: Closing Remarks*, 38 SW. L. REV. 653, 656 (2009) (discussing the benefits of two-year accelerated J.D. programs).

⁹⁹ Mark Hansen, *ABA Standards Review Committee: New Blood, New Direction?*, A.B.A. J. (Nov. 9, 2011, 11:06 AM), http://www.abajournal.com/news/article/aba_standards_review_committee_new_blood_new_direction (stating that the ABA Standards Review Committee is currently considering two alternative proposals relating to standards for job security where “one of which would mandate minimum contract requirements; and another that would provide law schools with more flexibility in meeting their responsibilities to attract and retain competent full-time faculty, protect academic freedom, provide meaningful participation in school governance issues and evaluate candidates for promotion, termination and renewal”); Karen Sloan, *ABA Panel Would Require Law Schools to Get Specific About Jobs Data*, NAT’L L.J. (Jan. 18, 2012), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202538734923&slreturn=1> (stating that the Standards Review Committee is also reviewing how law schools report graduate employment data); Sloan, *Possibility of Voluntary LSAT Reignites Debate over Test’s Value*, *supra* note 84 (stating that the committee is also debating a proposal to eliminate the LSAT requirement for law school applicants).

¹⁰⁰ See, e.g., James R. Faulconbridge & Daniel Muzio, *Legal Education, Globalization, and Cultures of Professional Practice*, 22 GEO. J. LEGAL ETHICS 1335, 1337 (2009) (arguing that empirical legal studies are important in the context of global education due to the current impact of “globalization on the very structure of legal education, the regulation of education providers, and the role of education in maintaining professional values and competency levels [which] are all in urgent need of analysis”); Toni M. Fine, *Reflections on U.S. Law Curricular Reform*, 10 GERMAN L.J. 717, 732 (2009) (examining the need for changes in U.S. legal education); Robert J. Morris, *Globalizing & De-Hermeticizing Legal Education*, 2005 BYU EDUC. & L.J. 53, 61–62 (2005) (introducing practical ideas on implementing a global legal curriculum).

¹⁰¹ Karen Sloan, *What Is Law School for, Anyway? While Legal Academia Dithers over Reform, the Profession May Be Passing Them By*, NAT’L L.J. (Jan. 16, 2012), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202538352545> (discussing the recent opinions and observations expressed at the 2012 AALS Conference on the subject of how to balance legal education).

limited practice licensing, to traditional J.D.s, LL.M.s, and joint degrees.¹⁰² Perhaps more regional schools will opt to abolish tenure and return to reliance on a combination of long-term contract teachers and practitioner adjuncts.¹⁰³ It is possible that fully online degree programs will emerge with state bar associations authorizing graduates to sit for a state's bar exam.¹⁰⁴ Traditional law libraries may largely be replaced by electronic databases, Apple iCasebooks, and open-source legal encyclopedias.¹⁰⁵

We cannot know what law schools of the future will look like. But we can be sure that experimentation and innovation will not come easily for those schools slavishly tied to *USNWR* ranking criteria as a measure of success. Just as Apple changed history by departing from the conventional expectations of the computer hardware and software industries of the 1980s, some law schools will improve on the model of legal education by committing to new missions and paths. The law schools that will lead us into the future are those that have internal confidence in their mission and compass and are not afraid to be proactive and different;¹⁰⁶ those that are most interested in playing to external media for affirmation will likely be hindered by the status quo, complacency, and fear of change.¹⁰⁷

¹⁰² See Newton, *supra* note 35, at 75–76 (discussing practical, and financially feasible, solutions for students who find that law school is not right for them).

¹⁰³ *Id.* at 107–08 (“The idea of non-tenure-track, short-term assistant professorship is not objectionable Law students should not be subsidizing such law review scholars-in-training with their tuition dollars.”).

¹⁰⁴ *E.g.*, *About Concord Law School*, CONCORD LAW SCH., <http://www.concordlawschool.edu/about-concord-law-school.asp> (last visited Feb. 3, 2013) (offering a fully online J.D. Program and noting that, while the school is not accredited by the ABA, its graduates are authorized to sit for the California bar exam).

¹⁰⁵ See, e.g., Paul E. Howard & Renee Y. Rastorfer, *Do We Still Need Books? A Selected Annotated Bibliography*, 97 LAW LIBR. J. 257, 257 (2005); *Apple in Education*, APPLE, <http://www.apple.com/education/ibooks-textbooks> (last visited Feb. 3, 2013) (demonstrating that Apple, Inc. and other computer and software companies have developed electronic books and have now created digital textbooks). Notably, there is as yet no such thing as an Apple iCasebook, but we can imagine that it will be developed in the near future.

¹⁰⁶ See Organ, *supra* note 48, at 167 (discussing what legal changes law schools will need to keep up with in the changing marketplace). In his blog, Paul Lippe frequently comments on legal education as an outsider who monitors change in the legal profession. In comments he made at the 2012 AALS Conference, he referred to five “phenotypes of change”:

- Innovators, who do new things because they like doing new things.
- Early adopters, who want competitive advantage over others.
- Pragmatists, who want to stick with the herd.
- Conservatives, who want to hold on.
- Laggards, who simply say “no way.”

Paul Lippe, *A View from AALS: What Change Looks Like*, LEGAL REBELS (Jan. 11, 2012, 10:42 AM), http://www.abajournal.com/legalrebels/article/a_view_from_aals_what_change_looks_like/.

He observes that deans have the most interest in change because deans have no choice but to confront and understand the mix of forces driving the need for change in legal education. *Id.*

¹⁰⁷ My colleague and former Gonzaga Law School Dean, Dan Morrissey, underscores this point by reference to his son's favorite quote from existentialist Albert Camus: “Do not believe that the

The legal profession is of such value and importance to society that training people for the profession requires law school to be more than just another competitive business. Law schools should not exist only to provide jobs for law professors who desire job security and do not want to practice law. Law schools should not pursue recognition solely for the sake of recognition and attracting tuition; rather, they should have a purpose, a mission that is realistically designed to make a difference in the world. They should follow that mission so long as it is practicable and worthwhile—even if the effort escapes the attention of those who keep lists of the “top” law schools. Who knows—maybe a law school could become famous by doing the right thing.