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THE TEACHING OF LAW PRACTICE MANAGEMENT AND TECHNOLOGY IN LAW SCHOOLS: A NEW PARADIGM

RICHARD S. GRANAT AND STEPHANIE KIMBRO*

INTRODUCTION

William Henderson[1] has argued that the United States' legal education needs to change because there is a shrinking demand for the product that today's law schools offer their students.[2] We would agree with this assessment.

The law school curriculum is wholly inadequate to train future lawyers in law practice management and technology.[3] Training in law practice management and law practice technology is a critical solution that will further align the skills that law students must have upon graduation with the employment needs of a radically changing legal market. As legal educators and administrators rethink their law

1. Professor of Law and Director of the Center on the Global Legal Profession, Indiana University Maurer School of Law.

2. William Henderson, *A Blue Print for Change*, 40 PEPPERDINE L. R. 461, 461-62 (2013); Abigail Johnson Donohoo, *IUprofessor: Legal education in the U.S. needs to change*, THE IND. LAW., (Feb. 13, 2013), http://www.theindianalawyer.com/iu-professor-legal-education-in-the-us-needs-to-change/PARAMS/article/30744.

3. *But see* Sylvia Hodges, *What They Didn't Teach You in Law School - Until Now*, N.Y. L.J. (Apr. 23, 2012),
http://www.newyorklawjournal.com/PubArticleNY.jsp?id=1202549587854&What_They_Didnt_Teach_You_in_Law_School__Until_Now&slreturn=20130321002223.

school's package of educational services, this article will provide guidance. Accordingly, what follows is not a traditional law review article. It is an analysis of a deficiency in one area of the traditional law school curriculum and a proposed solution to fix it.

I.   LAW PRACTICE MANAGEMENT

The subject of law practice management can be defined as the art and science of creating and operating a sustainable law firm that generates a reasonable income for law firm members after all costs have been paid. A variation of this definition appears in the literature as the study and practice of business administration in the legal context, including such topics as workload and staff management; financial management; office management; and marketing, including legal advertising.[4] While one would think that this is a subject that every graduating law student should master, the reality is that the teaching of law practice management in law schools is an elective course taught by adjunct faculty. The subject is often treated by the tenured faculty as a subject that is irrelevant to the actual practice of law—a subject that is within the domain of "business administration," rather than "law."

There is no official ABA analysis of the number of law schools that offer courses in law practice management. The most recent survey of Law School Curricula[5] in 2010 reports that in 2010 five schools dropped their course in law practice management but seventeen law schools added the course.[6] The same report states that only seven law schools nationwide offer a course in law and technology.[7] In 2008, Professor Debra Curtis did a review of 195 law school catalogs that appeared on the Web and determined that of 195 law schools reviewed, "131 did not list any course in their "course descriptions" that focused in a significant way on the basic principles of law office management," and "[s]ixty-one law schools did list at least one course which concentrated on the basic skills of law practice management."[8]

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4. *Law practice management*, WIKIPEDIA,
http://en.wikipedia.org/wiki/Law_practice_management (last visited Apr. 20, 2013).

5. A SURVEY OF LAW SCHOOL CURRICULA 2002-2010, AMERICAN BAR ASSOCIATION, SECTION OF LEGAL EDUCATION AND ADMISSION TO THE BAR (2012).

6. *Id.* at 72.

7. *Id.* at 70.

8. *See* Debra Moss Curtis, *Teaching Law Office Management: Why Law Students Need to Know the Business of Being a Lawyer*, 71 ALB. L. REV. 201, 210-11 (2008).

None of the schools that offered a course in law practice management required the course.9

An earlier report (2006) conducted by the ABA Standing Committee on Professionalism of the American Bar Association reported that a course in law practice management is not a required course for any of the fifty-five law schools reporting in their survey and that adjunct instructors taught 81% of the law practice management courses.10 The Committee concluded that:

> While the Standing Committee recognizes that there are constraints about what can be included in a law school curriculum, the fact remains that a large percentage of lawyers in the United States maintain solo or small firm practices and are therefore in need of training in regard to law office management. Many of these lawyers go into these practices straight out of law school and therefore do not have the luxury of on the job training before they find themselves in office management situations. In addition, even those new lawyers who start out in positions that do not require them to take the lead on office management issues will find themselves subject to the implications of those issues and thus would benefit from an educational background in the area.11

William Hornsby challenges law schools to train their students on how to deliver personal legal services.12 In his article he bluntly concludes:

> For doctrinal courses, schools tend to employ faculty with little or no experience providing personal legal services. In law school clinics, students learn how to practice law, often in areas of personal services, but they seldom learn much about practice management. Simply put, law school graduates are ill-prepared for the future they are most likely to pursue.13

Existing law practice management courses largely cover traditional functions of lawyers who offer legal services to individual clients at physical locations.14 These existing courses are better suited to training law students for law practice in the 1990's, rather than the

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9. *Id.* at 207.

10*. See* ABA Standing Committee on Professionalism, *Report on a Survey of Law School Professionalism Programs*, 38 (2006),
http://www.americanbar.org/content/dam/aba/migrated/cpr/reports/LawSchool_ProfSurvey.authcheckdam.pdf

11.   *Id.*

12.   William Hornsby, *Challenging the Academy to a Dual (Perspective): The Need to Embrace Lawyering for Personal Legal Services*, 70 MD. L. REV. 420, 436 (2011).

13.   *Id.*

14.   *See* Curtis, *supra* note 8; *see also id.* at 202 ("[W]hile focusing on teaching law students to 'think like a lawyer,' law schools often omit to tell students about the economic realities of surviving in practice.").

emerging forms of law practice that have become possible as new technologies become available. Jordan Furlong persuasively argues that the platform for the delivery of legal services is shifting from a traditional, office-based environment to the Internet.15 Evidence of this shift is abundant.16 Law practice is becoming more and more dependent on technology, creating a demand for new law firm business models that make older models obsolete.

A.   *Training in Law Practice Management is Now Urgent*

The legal profession is about to enter a period where the market for legal services will be more open, negatively impacting solo practitioners and small law firms, employment prospects for law students, and the viability of Tier III and Tier IV law schools that feed their graduates into small law firm practice.

Jordan Furlong predicts that the opening of the market for legal services will result in the following consequences in the market:

- Multiple legitimate providers now fully active in legal market. Lawyers battling many competitors for market share.
- Regulatory reform eventually sweeps away most remaining barriers to competition; only a small, high-value portion of legal work is reserved exclusively to lawyers.
- Legal knowledge and tools are almost universally available and adaptable through the Internet. Emergence of first industry standards in these areas.
- Many consumer legal services shift from lawyers to non-lawyer providers; closure of numerous solo and small-firm law practices that cannot adapt.
- Extreme efficiency: systems and software take on most paper, process and product work, plus growing amount of legal reasoning and analysis work.
- "Non-lawyers" evolve rapidly to fill in new gaps in the market and serve clients directly; development and enforcement of non-lawyer standards and protocols.
- Golden age of legal technology: unprecedented volume and breadth of both individual and enterprise applications disrupt even innovative law firms.

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15. *See* Jordan Furlong, *The evolution of the legal services market*, LAW21 (Nov. 5, 2012) at http://www.law21.ca/2012/11/the-evolution-of-the-legal-services-market-stage-1/, for Furlong's five-part series blog posts on the evolution of legal services.

16. *See generally, Legal Technology Resource Center*, ABA LAW PRACTICE MANAGEMENT SECTION, *available at*
http://www.americanbar.org/groups/departments_offices/legal_technology_resources.html (last visited Apr. 20, 2013).

- Client access to legal services has never been greater. Prices for most services drop to their lowest levels in recent memory, some to true commodity levels ($0).[17]

Additionally, Furlong predicts that "[s]ubstantial numbers of law schools [will] close or dramatically downsize; many [will] adopt practical training offerings to compete for new students or serve practicing lawyers."[18] Thus, Furlong suggests that lawyers will adapt by beginning new solo and small-firm practices that are mobile, virtual, highly specialized, systematized, collaborative, and project-based.[19] Furlong further notes that "'Sole practice' has long been virtually synonymous with 'general practice,' but solos in this era develop niche practices and hone unique skills in order to serve very specific markets over a wide geographic area."[20]

While it is unlikely that all of Furlong's predictions will come true at once, the trends are unmistakable. The American Bar Foundation reported in 2005, that seventy-five percent of lawyers were in private practice.[21] Of those in private practice, forty-nine percent were in solo practices and an additional fourteen percent were in firms of two to five lawyers.[22] Nearly two out of three practitioners in the United States practice in firms with five or less lawyers.[23] Since 2005, the last year a comprehensive statistical analysis was conducted by the legal profession, the number of practicing lawyers has increased to 1.225 million.[24] Unlike lawyers who work for larger law firms, where managing the law practice is the responsibility of management professionals, the majority of lawyers are now faced with the prospect of managing their own enterprises.

Over the next decade, 414,000 law graduates will be competing for only 212,000 jobs, a 48% employment level.[25] There is substantial

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17.   Jordan Furlong, *The evolution of the legal services market: Stage 3*, LAW21 (Nov. 7, 2012) at http://www.law21.ca/2012/11/the-evolution-of-the-legal-services-market-stage-3/.

18.   *Id.*

19.   *Id.*

20.   *Id.*

21.   Clara N. Carson, *The Lawyer Statistical Report: The U.S. Legal Profession in 2000*, AMERICAN BAR FOUNDATION 28 (2004),
http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/lawyer_demographics_2012_revised.authcheckdam.pdf

22.   *Id.* at 29.

23.   *Id.*

24*.   Id.*

25.   Matt Leichter, *BLS Updates Its 2020 Employment Projections: For Law Students, It's Very Bad,* THE LAW SCHOOL TUITION BUBBLE (Mar. 12, 2012), http://lawschooltuitionbubble.wordpress.com/2012/03/12/bls-updates-its-2020-employment-projections-for-law-students-its-very-bad/.

evidence that the legal services industry will experience a major contraction during the coming decades.26 The value of a law degree is now coming into question.27 Only 55% of law students graduating in 2011 reported having full-time, long-term jobs requiring a law degree, at nine months after graduation.28 The change in the job market masks a long-standing but rarely recognized reality: law jobs, particularly for new attorneys, have never been abundant.

More than any generation of lawyers, the next generation of lawyers will have to be entrepreneurs rather than employees working for someone else.29 By entrepreneurs we mean independent professionals who contract directly with clients without the benefit of a larger intermediary organization.30

Professor Knake from Michigan State Law School and the co-founder of the Reinvent Law project31 argues that there are opportunities for lawyers in filling the justice gap, but that it will require a new type of training to develop the skill sets required to seize these opportunities:32

> One of the most pressing issues facing the profession in the 21st century is the "justice gap": millions of people who need legal representation cannot afford or access a lawyer. The overwhelming majority of this country goes without much-needed legal help because they simply cannot afford to pay a lawyer three-figures-per-hour for multiple hours, but they also do not qualify for the limited legal aid pro-

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26. *See generally,* Eli Wald, *The Economic Downturn and the Legal Profession, Foreword: The Great Recession and the Legal Profession*, 78 FORDHAM L. REV., 2051, 2051-52 (2010) (discussing consequences of the economic downturn on law firms); *see also* Hornsby, *supra* note 12, at 433.

27. *See* David Segal, *Is Law School a Losing Game?*, N.Y. TIMES (Jan. 8, 2011), http://www.nytimes.com/2011/01/09/business/09law.html?pagewanted=print   [hereinafter Segal, *Losing Game*]. *But see* Bill Hebert, *What is the Value of a Law Degree?*, CAL. ST. B.J. (Feb. 2011), http://www.calbarjournal.com/February2011/Opinion/FromthePresident.aspx; *see also,* Bill Hebert, *What is the Value of a Law Degree? Part 2*, CAL. ST. B.J (Mar. 2011), http://www.calbarjournal.com/March2011/Opinion/FromthePresident.aspx.

28. Joe Palazzolo, *Law Grads Face Brutal Job Market*, WALL ST. J. (June 25, 2012), http://online.wsj.com/article/SB10001424052702304458604577486623469958142.html;   *see also,* Lincoln Caplan, *An Existential Crisis for Law Schools*, N.Y. TIMES (July 14, 2012), http://www.nytimes.com/2012/07/15/opinion/sunday/an-existential-crisis-for-law-schools.html.

29. Luz E. Herrera, *Training Lawyer-Entrepreneurs,* 89 DENV. U. L. REV. 887, 889 (2012).

30. *See generally,* Jordan Furlong, *The Future of Legal Employment*, LAW21 (Apr. 13, 2012), http://www.law21.ca/2012/04/the-future-of-legal-employment/ (offers discussion on the employment prospects for this generation of lawyers).

31. REINVENT LAW LABORATORY, http://www.reinventlaw.com (last visited Apr. 20, 2013).

32. Michigan State University College of Law has recently launched ReInvent Law (www.ReInventLaw.com)—a law laboratory devoted to technology, innovation, and entrepreneurship in legal services. Students can take courses focused on law practice innovation and entrepreneurial lawyering (i.e. providing tools for lawyers to become entrepreneurs, not merely advising students).

grams available. The legal profession faces a delivery problem—we have failed to develop sustainable models for delivering legal services that are affordable, accessible and, importantly, adopted by clients who utilize them on a regular, sustained basis.

Meanwhile, thousands of lawyers are unemployed, and law schools continue to graduate new attorneys at record levels. For these attorneys, individuals in the gap represent an opportunity—an enormous untapped market. Thus the legal profession also faces a matching problem—we struggle to pair appropriately qualified lawyers with clients who need them.

. . .

Our challenge is to create better delivery models that match appropriately qualified lawyers with the clients who need them. To find a solution, we need fuel to entrepreneurship and innovation in legal services.33

The pressure on graduating law students to define their careers in terms of entrepreneurship, creating and operating their own law enterprises, will be intense.34 The training of law students in law practice management skills for tomorrow's legal enterprises will become a required competency for survival as a lawyer. There will be thousands of graduating law students who are now faced with the prospect of creating and operating their own law firms, rather than working in law firms as employees. Yet, law schools are failing to prepare law students for these career challenges.

B.   *Ethical Rules and Training in Law Practice Management*

Because of this pervasive impact that information technology is having on the practice of law, the American Bar Association House of Delegates adopted an amendment to Comment 8 to Rule 1.1 of the Model Rules of Professional Conduct, defining the competence of an attorney.35 Rule 1.1 states that "[c]ompetent representation requires the legal knowledge, skill, thoroughness and preparation necessary for the representation."36 The new Comment 8 elaborates on this definition by requiring a lawyer to "keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology."37 This new requirement recognizes that to competently

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33.   Renee Newman Knake, *Why Law Students Should Be Thinking About Entrepreneurship and Innovation in Legal Services*, BLOOMBERG LAW: PRACTITIONER CONTRIBUTIONS (2012), http://about.bloomberglaw.com/practitioner-contributions/innovation/.

34.   Herrera, *supra* note 29, at 910.

35.   MODEL RULES OF PROF'L CONDUCT, R. 1.1 cmt.8.

36.   MODEL RULES OF PROF'L CONDUCT, R. 1.1.

37.   MODEL RULES OF PROF'L CONDUCT, R. 1.1 cmt.8.

practice law, a lawyer must now understand the impact that technology has on law practice, and by extension, law practice management.

There is an interplay between the Model Rules of Professional Conduct and new modes of delivering legal services that have a technology component. The Ethics 20/20 Commission has recognized this by releasing a set of Working Papers that deal with the impact of new technology on the legal profession's rule structure.[38] These papers include recommendations, some of which have been approved by the American Bar Association Houses of Delegates, and some of which are likely to be approved by the House.[39] Eventually these recommendations will be adopted by the states and will apply to all practicing lawyers.[40]

Practicing law today requires both knowledge of how these new technologies can be used to make lawyers more effective in serving clients, and an understanding of how the Model Rules of Professional Conduct impose limits on the design and delivery of legal services.

It follows that if law schools are charged with training law students to become competent lawyers then law school curriculum must address the intersection of information technology and law practice. It must also provide law students with a basic understanding of how to assess the risks and benefits of technological advances.

II.   TRAINING FOR THE FUTURE PRACTICE OF LAW

Richard Susskind, in a review of legal education in the United Kingdom for the Legal and Training Review Board,[41] argues that in many law schools, the law is taught as it was in the 1970s, by professors who have little insight into or interest in the changing legal marketplace. Too often, scant attention is paid to phenomena such as globalization, commoditization, information technology, modern business management, risk assessment, decomposing, and alternative sourcing.[42] And so, he stresses that if many law graduates in the UK are

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38. *See generally, Issues Papers*, ABA COMMISSION ON ETHICS 20/20, *available at* http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20 _20/priorities_policy.html, providing information on the proposed and adopted resolutions of the ABA Commission on Ethics 20/20.

39. *Id.*

40. *Id.*

41. Richard Susskind, *Provocations and Perspectives* 12 (Legal Education and Training Review, Briefing Paper 3/2012), *available at* http://letr.org.uk/publications/briefing-and-discussion-papers/.

42. *Id.*

ill-prepared for legal work today, they are still less equipped for to-morrow.43

Susskind also argues that legal educators should take the advice of Wayne Gretsky and "skate" to where the industry is going, rather than to where it is today.

> First of all, it is instructive to bear in mind the words of Wayne Gretzky, arguably the world's finest ever ice hockey player. When once asked to what he attributed his excellence, he said that he skates 'where the puck's going, not where it's been'. There is a lesson here for the world of law. Too often, when lawyers and legal policy-makers are planning ahead, they focus on improving the law and legal processes in the context of the current state of affairs. Instead, Gretzky draws our attention to a broader challenge – to anticipate how the world might be and to recommend reforms that will fit well into that new world rather than into the realm of yesterday. It follows for the Review, therefore, that the task is to recommend a regime for education and training that will dovetail not with the legal marketplace of today but with that of the future, taking account of factors such as probable changes in the economy, emerging information technologies, the way in which legal service is likely to be delivered, the new providers of legal services who will be competing with law firms, and so forth.44

Susskind further argues that future lawyers will need to be "hybrid professionals" who not only know the law but who also have skills in project management, outsourcing, practice management, and technology.45 Susskind also identifies new career lines for lawyers. These are the legal knowledge engineer; the legal technologist; the legal hybrid; the legal process analysts; the legal project manager; the ODR practitioner; the legal management consultant; and the high risk manager.46

In addition, we believe that every lawyer will need to have some knowledge of the skill embodied in these new job descriptions, if only to be able to hire or retain these specialists to augment or participate in many different ways in the legal work that the law firm produces.

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43.   RICHARD SUSSKIND, TOMORROW'S LAWYERS: AN INTRODUCTION TO YOUR FUTURE 136-37 (2013); *see generally,* RICHARD SUSSKIND, THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES (2008).

44.   Susskind, *Provocations and Perspectives*, *supra* note 41, at 5.

45.   *Id.* at 10.

46.   SUSSKIND, THE END OF LAWYERS?, *supra* note 43, at 269-77.

A.   The Teaching of Law Practice Management in a Digital World

In envisioning a new curriculum for the teaching of law practice management in law schools, we seek to propose a curriculum that points to where the legal office will be, rather than to where it has traditionally resided. Other commentators have written about the importance of incorporating information technology into the teaching of substantive law topics.[47] Although we emphasize the importance of understanding information technology in relationship to law practice in this article, our focus is just on the subject of law practice management, not the broader topic of integrating information technology skills in the substantive topics of law.[48]

Our bias is towards a skill based-curriculum that teaches core competencies and results in verifiable outcomes. Throughout the course we envision that issues of professional responsibility will be addressed. Broad based course objectives could include:

- Developing a law firm business plan or a personal career plan;
- Understanding the different ways in which a law firm can be organized to deliver legal services to different markets;
- Understanding how to analyze the market for legal services;
- Understanding how to define a market niche and how to develop a market for the law firm's services;
- Understanding all the inputs required to deliver high quality legal services;
- Understanding what technologies are required to support different law firm business models.
- Learning best practices for use of technology to avoid malpractice and stay ethically compliant.

We can further define specific curriculum modules that could be included in a semester long course on Law Practice Management and Technology. We envision that the following required core competencies will be essential for 21st century law practice management: planning skills and law firm business modeling; project management and operation management skills; and management outsourcing.

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47. *See, e.g.*, EDUCATING THE DIGITAL LAWYER (Oliver Goodenough & Marc Lauritsen, eds., 2012), *available* at http://www.law.harvard.edu/programs/plp/pages/digital_lawyer_book.php (This e-book contains a compilation of writings and analysis from a number of legal experts and professionals considering questions related to the trend towards digital interaction in the legal field.).

48. *See* Brock Rutter, *Survey of Existing Courses in Lawyer Use of Technology*, EDUCATING THE DIGITAL LAWYER, *supra* note 47, at § 6.02, for a survey of courses in legal technology.

1. Planning skills and law firm business modeling

Law firms fail, whether large or small, because often lawyers have no understanding of the business planning process. A law firm is both a professional practice and a service business.

Starting a law firm or expanding an existing practice requires skills in defining the target market; calculating the cost of client acquisition, which is often a function of the firm's marketing approach; figuring out the technology, personnel, and other resources necessary to produce the legal service; and understanding which pricing model works best with that particular practice. All of these elements together constitute a business plan or a business model that the law firm can use as a blue print for building their practice. A business model can be defined by how a law firm earns its fees. The building blocks of a business model include clients, offers, infrastructure, and financial viability. The law firm business model is a blue print for a strategy that is implemented throughout organizational structures, processes, and systems.

When lawyers start law firms, they may or may not have business models in their heads. Not having a clearly defined business model can be a formula for law firm failure. However, legal business models can be taught.[49] Today, many law school graduates are faced with the choice upon law graduation of going into solo or small law firm practices, as employment with a large firm is not realistic given today's market conditions. Understanding how to design a business model for a solo practice is now a professional survival skill.

Both large and small law firms are creating new business models that have a disruptive effect on competing law firms within their market segment.[50] These firms have mastered the art of creating viable business models, solidifying the foundation upon which their firms are built. Teaching planning skills and business modeling to law students will provide them with the basic skills to manage their professional

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49. *See generally,* ALEXANDER OSTERWALDER & YVES PIGNEUR, BUSINESS MODEL GENERATION (2010).

50. The American Bar Association's Law Practice Management Section awards the James Keane Award for Excellence in eLawyering for demonstrating innovative business models that result in the delivery of legal services over the Internet. A list of these firms can be found here: http://www.techshow.com/award/. The American Bar Association's Standing Committee on the Delivery of Legal Services also awards the Louis M. Brown Award for Legal Access annually to a legal organization for creating an innovative law firm model that provides increased access for clients of moderate means to the legal system. Law firms that have received recognition for their innovative business models include CLEARSPIRE, http://www.clearspire.com (last visited Apr. 20, 2013), and TRADEMARKIA, http://www.trademarkia.com (last visited Apr. 20, 2013).

growth as practitioners, whether they take the likely course of solo practice or whether they must create and maintain a new role for themselves inside the structure of larger law firm.

2.   Project Management and Operations Management Skills

Due to the effect of the economic downturn on the legal services industry, lawyers must now have skills to understand what it takes to manufacture a legal service so that it can be priced accurately and delivered in a timely manner.51 Project management skills include the ability to break down legal tasks into essential components, schedule deadlines, and manage the people producing the work.52

Project management is a key component of operations management. John E. Murdock III and Nancy Lea Hyer argue: "The only way lawyers can maintain or improve the quality and timeliness of their work while minimizing the price to their clients is to make operational improvements in how their work is done."53 Operations management describes the way an organization evaluates and improves what it does. Specialized approaches to streamlining organizational operations include Lean, Six Sigma, and the Theory of Constraints.54 These approaches are now used in business to first identify and then reduce redundant and wasteful operations within a system. These approaches lend themselves to the design of legal service delivery systems. A small number of selected legal organizations are now breaking ground by adopting these approaches within law firms and corporate legal departments.55 Even in the smallest law firm, a lawyer needs to have a basic understanding of how these technologies can be used to redesign legal services to reduce cost without compromising profit margins. Yet, according to Professor William D. Henderson at University of Indiana Law School, only Indiana Law School has created a course in legal project management that is designed to build skills among law students that they can effectively employ in their practices.56

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

52. *Id*. at 381-88.

53. John E. Murdock III & Nancy Lea Hyer, *Lean Lawyer*, SUBTECH2012, N.Y. L. SCH. (July 28, 2012), http://www.lawpracticeoperations.com/Lean_Lawyering_as_of_1_4_13__2_.pdf.

54. *Id.*

55. *See* Jason Krause, *The Cisco Way*, A.B.A. J. (Sept. 29, 2005), http://www.abajournal.com/magazine/article/the_cisco_way/.

56. Email to the authors from William D. Henderson, Professor, Indiana University Maurer School of Law, Director, Center on the Global Legal Profession, April 28, 2013.

3. Management of Outsourcing

The trend continues to accelerate towards outsourcing of legal or management functions to independent third parties, located both within the United States and internationally. Outsourcing used to be limited to larger firms. However, solos and small firms are also feeling pressure to outsource both legal and management functions in order to cost-effectively manage their practices and remain competitive with other firms. There are crucial skills that a lawyer must understand when outsourcing that are not typically taught by law schools. Lawyers must know how to select outsourced services, manage the work that is produced by them, and ensure compliance of the outsourced work with the lawyer's rules of professional conduct. As of August 2012, the ABA House of Delegates amended Rule 5.3 to expand the lawyer's supervision of non-lawyer assistants to non-lawyer assistance outside of the firm, including any third-party services that are Internet-based as well as in-person.57 Not only must law students enter practice knowing how to cost-effectively manage outsourcing, but they must also understand how to do so within the rules of professional conduct.

B. *Technological Tools – How to Select Technology Tools for Smart Lawyering*

Most law schools do a decent job of preparing future lawyers to use technology to conduct research and case preparation online. This is primarily due to the aggressive presence of technology vendors such as Westlaw and LexisNexis in the law schools who encourage use of their products in return for various sponsorships of law school activities. Law students may also be encouraged during their first year of law school to use laptops, notebooks, tablets and other wired hardware in the classroom to take notes and prepare papers. However, law schools are not educating their students about how to select and use technology in a way that facilitates practice management.

Because most law students are passing the bar and heading straight into solo practice or small firms, they will not be able to rely on a law firm IT consultant or managing partner to make decisions for them regarding the use of technology in practice. They may not know how to develop a firm policy for the use of technology or be familiar with best practices for its use. New lawyers may not be able to afford

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57. *See* Model Rules of Prof'l Conduct, R.5.3 cmt. 3.

to hire an IT or law and technology consultant to advise on software and hardware choices. They will need to make their own technology decisions as well as establish their own best practices.

Aggressive marketing from legal technology vendors and freemium-model software offers may particularly appeal to the solos and small firm practitioners operating on a tight budget. New lawyers may see the cost-savings and benefits of using the technology in the critical first years of practice, but they may not have the education needed to adeptly evaluate vendor marketing to understand how these decisions can impact their practice. Many students leaving law school are comfortable using technology to communicate with their friends and family, but they are not aware of the unique dangers that the use of technology may have when used to transmit confidential client information in a law office setting. How technology tools may be applied to law practice requires a different skill set that must be taught in the law school rather than by trial and error by the new lawyer out in the field. Accordingly, new lawyers must be educated on the basics of selecting technology tools for law practice that will not only help them establish successful practices, but which will also help them avoid malpractice claims and serve their clients in an efficient and ethical manner.

1. Client Portal Technology

The American Bar Association's eLawyering Task Force has defined a "virtual law practice" as one where clients have access to the firm's lawyers, communications and documents related to their legal issues through a password protected and secure web space where both the attorney and client may interact, share documents, and use legal services.[58]

A "secure web space" that is accessible to a client is commonly known as a "client portal." The law firm provides a secure entry point through the law firm's website that lets its clients log into an area where they can communicate, view and download documents, collaborate on document editing and upload private information. When a consumer logs onto a bank, stock brokerage firm, online travel agency, Amazon, or any one of thousands of ecommerce websites, they are

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58. *Suggested Minimum Requirements for Delivering Legal Services Online*, AMERICAN BAR ASSOCIATION, ELAWYERING TASK FORCE, LAW PRACTICE MANAGEMENT SECTION (Oct. 15, 2009), http://meetings.abanet.org/webupload/commupload/EP024500/relatedresources/Minimum_R equirements_for_Lawyers_2009_10_24.pdf.

accessing a secure client space. Among solos and small law firm practitioners, the number of firms that utilize a secure client portal to work with their clients is by our estimation a very small percentage of the 600,000 solos and small law firms with under 10 lawyers.59 The American Bar Association reports in its annual Legal Technology Resource Center study that as of 2012, only 61% of solo practitioners even had a website.60 If a firm does not even have a website, it will not have a secure client portal. When asked in the same survey if the firm considered that it has a virtual law practice, 7% reported "Yes", 91% reported "No", and 2% reported that they didn't know.61

As a web application, client portals have become pervasive in almost every professional service sector, other than the legal profession. People use client portals when signing onto manage bank accounts or investment portfolios, book flights, pay online bills, sign onto Facebook, or purchase legal documents from LegalZoom or RocketLawyer.

Almost every other professional service industry uses client portals to work with clients, including public relations firms, accounting firms, architectural firms, and management consulting firms. Only the legal profession—particularly solos and small law firm practitioners—lags behind these other service sectors in effectively using these technologies.

Without a client portal web application, it is difficult or impossible for lawyers who offer a virtual practice option to their clients to comply with the rules of professional conduct related to UPL, client confidentiality, the lawyer/client relationship, and conflict of interest issues. They cannot offer secure communications, document storage, document transmission, or secure payment options.

Understanding how to incorporate a "client portal" application as part of the law firm's information architecture is critical to the design of the law firm's business model.62

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59. 2012 ABA Legal Technology Survey Report, Web and Communications Technology (Volume IV) (Joshua Poje ed., 2012) (reports that only 11% of solo practitioners use a secure client portal in their law practice, and of law firms between 2-9 attorneys only 11% report the use of a secure client portal).

60. *Id.* at viii.

61*. Id.* at xiii.

62. *See Guidelines for the Use of Cloud Computing in Law Practice*, A.B.A. eLawyering Task Force (Jan. 15, 2011),
http://meetings.abanet.org/webupload/commupload/EP024500/relatedresources/cloudcompu tingguidelines05.30.2011.pdf.

In an article published in the September Issue of *Law Practice Magazine*, on predictions for the next five years of eLawyering, Richard Granat and Marc Lauritsen asserted that:

> Larger law firms have been using extranet technologies for years, but few solos and small firm practitioners have incorporated client portals into their websites. Recently, however, the cost of this technology has come within reach of even the smallest firms. Think of a personalized web space for each client, giving the firm an online platform for offering a wide range of functions that ordinarily would be provided by telephone, fax, snail mail or in-person meetings. We predict that within five years almost all law practices will use such a portal.[63]

2. Collaboration Technologies

There was a time when lawyers communicated either face-to-face or by telephone. Today the dominant mode of communication is likely to be email, but email has limitations when a lawyer is working with a team of parties spread out geographically. Parties might include other partners in the law firm, different representatives from the client, opposing counsel, and sometimes representatives from the other party represented by counsel. Web-based software applications such as "virtual deal rooms" and "client intranets," which are variations of the client portal concept, permit the secure sharing of documents and discussions. Lawyers may even execute documents securely.

Learning how to use these online collaboration tools can be a challenge for a lawyer who has never used them. Chad E. Burton, Managing Partner of Burton-Law, a multi-state virtual law firm, reports that "[n]ot every lawyer is cut out to have the freedom of working outside of a traditional office environment;"[64] yet in the law practice of the future, this is likely to be a critical skill set. We envision that in a law practice management course designed for a digital era, students will learn how to collaborate effectively online, as well as learn how to evaluate collaborative software applications so that they are in ethical compliance.

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63. Richard S. Granat & Marc Lauritsen, *The Next Five Years – Predictions for the Future of eLawyering*, 37 A.B.A. Law Practice Magazine, Virtual Practice Issue 5 (2011), *available at* http://www.americanbar.org/publications/law_practice_magazine/2011/september_october/the_next_five_years.html.

64. Chad E. Burton, *Managing a Virtual Law Firm*, 39 A.B.A. Law Practice Magazine, The ABA Techshow Issue 2 (2013), *available at* http://www.americanbar.org/publications/law_practice_magazine/2013/march-april/managing-a-virtual-law-firm.html.

The University of Miami Law School, through its *LawWithoutWalls* project,65 has been creating collaborative teams of law students, mentors, and faculty that work on projects together across state and international boundaries. The Project has been recognized for its innovative focus on training law students in collaborative technologies and the professional behavior required for working with multiple parties online.66

> *LawWithoutWalls* is a part-virtual, collaborative academic model that unites students, faculty, practitioners, and entrepreneurs from around the world to innovate legal education and practice. It's designed to help those engaged in the education and practice of law to embrace the impact of our changing world. *LawWithoutWalls* exemplifies what 21stcentury education can be. Students are not educated on-line in the same old way. Instead, technology is utilized to create an entirely new educational experience, a platform for interdisciplinary interchange and community.67

III. DESIGNING THE INFORMATION ARCHITECTURE OF A LAW FIRM

Information architecture describes all software applications that a law firm uses to build its business model. These applications include practice management and document management solutions, specialized software programs that can be used to fully automate a practice area, document automation and web advisors used to enhance the client experience. Law schools should teach the process of designing information architecture for law firms. Some of this knowledge can be purchased from information technology consultants that specialize in the legal industry. However, there is no substitute for an attorney's judgment when selecting applications to maximize the firm's productivity and competitive advantage.

A.   Understanding Data Structures

A law practice can be viewed as a compilation of databases. Lawyers must keep client files, discovery documents, internal research memoranda, and financial records in separate databases. It follows that law students and lawyers should have a basic understanding of how databases are constructed and of the differences between files

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65. *See* LAWWITHOUTWALLS, http://www.lawwithoutwalls.org/ (last visited Apr. 20, 2013).

66. *See 2011 InnovAction Award Winners*, COLLEGE OF LAW PRACTICE MANAGEMENT, http://collegeoflpm.org/innovaction-awards/award-winners/2011-innovaction-award-winners/ (last visited Apr. 20, 2013).

67. *Id.*

and records. Law schools can easily teach database design, and at the same time provide a deeper understanding of data types, search technologies, and applications that can be created quickly to organize information in the law firm eliminating the need to purchase expensive consulting services. The different types of file data and the concept of metadata ("tags") are fundamental to understanding how data can be organized within a law firm setting. Law students should not graduate law school without an understanding of how the legal system generally, and a law practice in particular, can be viewed as a collection of databases.

B.   *Law Firm Metrics*

As management consultant Peter Drucker once said: "If you can't measure it, you can't manage it."[68] Many lawyers are notoriously oblivious to the key metrics that determine a law firm's performance and the financial health of a practice. There are certain key metrics that every lawyer should have an understanding of, whether the firm is a solo practice, small law firm, or larger law firm. Even if the lawyer does not have a management role within the law firm, it is useful to have an understanding of the key drivers of law firm performance and the data that needs to be collected to make informed judgments about law firm strategy and direction.

For example, in 1984 David Maister, the famous management consultant to big law firms, introduced his concept of the Law Practice Business Model,[69] which is still used today to evaluate the financial performance of law firms. Since most law firms still base their billing methods on the billable hour, Maister's model is still relevant. The law firm business model, as defined by David Maister, is made up of the following equation:

NIPP = (1 + L) x (BR) x (U) x (R) x (M)

Where NIPP is net income per partner,

L = Leverage (ratio of associates to partners)

BR = Blended hourly billing rate

U = Utilization (client hours recorded)

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68. Joyce Hesselbreth, *Enabling Analysis*, SYNYGY MAG. 19 (2008), *available at* http://www.esresearch.com/e/downloads/EnablingAnalysis_Synygy_Summer08.pdf.

69. *See* M. Thomas Collins, *Financial Metrics for Law Firms*, A.B.A. LAW PRACTICE TODAY (Nov. 2006), http://apps.americanbar.org/lpm/lpt/articles/fin11061.shtml.

R = Realization (revenues divided by standard value of time recorded)

M = Margin (partner's profits divided by revenues)[70]

Basically there are five key profit drivers that, if measured, will affect a law firm's bottom line. These drivers are: (1) Leverage; (2) Rate; (3) Productivity (Utilization); (4) Realization; and (5) Margin.[71] If a law firm is not tracking these profit drivers, it will not properly measure per-partner profits.[72] As far as profitability is concerned, law firm management will be working in the dark. If a law firm has moved towards a fixed-fee billing model, it is imperative that the firm's management knows what it costs to produce each unit of "legal service." If attorneys cannot track costs and expenses, and then relate these costs and expenses to unit-of-service delivery, they will not know whether the fixed fees that they are charging will be profitable.[73]

For example, the discipline of quantitative analysis is not a subject taught in law school, yet understanding how important measurement is to evaluating law firm performance is a skill that exceeds the ability to read an income statement and a balance sheet. The success of marketing programs is all based on measurements: Which ad works best in generating prospects? How many prospects convert into real leads? How many leads convert into clients? In larger law firms, specialists are responsible for generating these metrics. Smaller law firms, however, may not have this resource. This means that partners in smaller firms must understand law firm economics to do this work themselves. Today, there are software tools that can aid the lawyers in collecting and analyzing required data. But, if young lawyers know nothing about how to measure the key indicators of law firm success, they practice at their peril.

C.   *Ethical Rules That Apply to Use of Legal Technology*[74]

There are many potential ethical and regulatory issues presented by the use of legal technology. Many law students will decide to use technology that is not created specifically for lawyers without consid-

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70. *Id.*
71. *Id.*
72. *Id.*
73. *Id.*
74. *See generally* William Hornsby, Staff Counsel to ABA's Division for Legal Services, Professional Responsibility When Lawyering In a Virtual World (March 14, 2008), *available at* http://www.kentlaw.edu/faculty/rstaudt/classes/justicetech_fall2011/Will%20on%20ethicsTECHSHOW%202008.pdf.

ering the Professional Rules of Conduct. This creates the potential for additional ethical issues that technology developed for lawyers may actually be designed to help prevent. Some of these ethics issues include, but are not limited to, the following: (1) duty of confidentiality (Model Rule 1.6(a)) and safeguarding client property (Model Rule 1.15) when using cloud-based technology; (2) legal compliance issues and security; (3) duties to prospective clients online (Model Rule 1.18) and establishing the scope of representation online and the use of unbundling legal services (Model Rule 1.2); (4) competency (Model Rule 1.1) and diligence (Model Rule 1.3); (5) responsibilities of partners, managers and supervisory lawyers, virtual assistants and paralegals (Model Rules 5.1-5.3); (6) unauthorized practice of law (Model Rule 5.5); (7) choice of ethics law in multijurisdictional virtual law practice (Model Rule 8.5); (8) using cloud-based tools for client development (Model Rules 7.1-7.5); (9) using technology in outsourcing practices; and (10) electronic discovery (Federal Rule of Civil Procedure 26).While most law students focus on professional responsibility in a single required course, we believe it is necessary for them to review ethics and regulatory issues related to the use of technology as applied across the curriculum. As mentioned above, the recent change to Model Rule 1.1 requests lawyers to "keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology."[75] Not providing law students with a strong understanding of the ethics and regulatory issues they may face in using technology would not adequately prepare them to use the technology in their law practice.

IV. CLIENT DEVELOPMENT

In order to be competitive, lawyers must learn how to build a strategy for client development that thrives within a legal marketplace that is increasingly influenced by the use of cloud computing and the public's access to the Internet. Consumers are using online methods of educating themselves prior to contacting a lawyer directly. They rely on rating and review sites to make comparisons of lawyers' services. Consumers read blogs related to their legal matter and access free online legal forms and other resources to understand their legal situation before contacting a lawyer directly. Blogging, social media, and other forms of online marketing must be used as part of a lawyer's

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75. MODEL RULES OF PROF'L CONDUCT, R. 1.1 cmt.8.

overall plan to develop a strong online brand and to generate client development and network with other professionals.

As with any use of technology, there are ethical issues that may arise from the use of social media and online marketing. New lawyers will need to be aware of best practices when engaging with others online through these applications. Without this knowledge, new lawyers risk malpractice claims or disciplinary actions when they find themselves blogging, commenting and posting on social media applications without understanding how to navigate the careful lines between personal and professional online behavior.

Lawyers who choose not to engage in social media and other forms of online marketing face the risk of not being able to monitor their online reputation, and leave the brand and expertise building to their competition. With careful attention to best practices for the use of social media, a lawyer may find a number of benefits from its use, both for client development and networking as well as improved customer service for existing clients. Below are the basic subjects that law students should be exposed to in order to understand how to successfully develop and maintain a client base in the current legal marketplace.

A.   *Social Media Tools*

Law students should understand how to navigate the most current online platforms and applications used by lawyers to engage in online social networking, both publically and in closed communities or with groups of other lawyers. This would include platforms, such as Facebook, LinkedIn, Twitter, YouTube, Google+, Pinterest and Instagram. Lawyers may use these social media tools to build a consistent online brand that carries over into all of their marketing. Lawyers need to know not only how to set up profiles using these tools, but more importantly, how to monitor and maintain their accounts and profiles.[76] Security and privacy issues surround the use of social media tools. Lawyers need to understand how to securely use and explain these tools in order to protect themselves and their clients who may use these tools. The law school curriculum should include other topics, such as time management and organization of social media strategies. Additionally, a basic law school class covering client development should also teach law students how to evaluate which forms of social

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76. *See generally,* Carolyn Elefant & Nicole Black, Social Media for Lawyers: The Next Frontier (2010) (guide for lawyers on the use of social media).

media would be most beneficial for their practice. This same class should also teach them how to manage their social profiles as students, so that they do not sabotage their reputations prior to becoming professionals.

B.   Law Firm Websites

In the past, law firm websites were often simply used as online versions of business cards. However, the most effective law firm websites focus on client development by engaging with prospective clients in a variety of ways. Law students should know the basics of setting up a website for their practice and understand how other methods of online marketing tie into the website design and functionality. This includes understanding how to work with a website developer to create a visual brand for a legal practice and a website tailored to a targeted client base. Students need to learn how to implement the ABA eLawyering Task Force's Best Practice Guidelines in the development and maintenance of a website and how to avoid ethics issues, such as unauthorized practice of law claims that may arise from the improper publication of a lawyer's website.[77]

C.   Law Firm Blogs

Lawyers also use blogs as a form of online client development.[78] Some blogs are incorporated into the firm's main website, while others may just be personal blog entries. As a client development tool, blogs encourage lawyers to create content related to their practice area and share content with their target client base. Lawyers often use social media to disseminate this valuable content across multiple online platforms, reaching the maximum number of prospective clients for the lawyer's services.

Law students need to know the basics of setting up and maintaining a blog through blogging platforms, such as WordPress or Blogger. This includes learning how to use dashboard features; manage posts, comments, pingbacks; provide administrative access to website developers or guest bloggers; update the blogging software for security;

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77. *Best Practice Guidelines for Legal Information Web Site Providers*, ABA Law Practice Management Section (Feb. 10, 2003),
http://www.americanbar.org/groups/law_practice_management/committees/elawyering-best-practices.html.

78. *See* Ernie Svenson, Blogging in One Hour for Lawyers (2012), for a general reference on blogging for lawyers.

back up the blog itself; and other critical management matters. New lawyers should also learn the art of blogging itself, which includes developing a unique style of writing as a professional and adding complementary materials, such as videos, podcasts, and photographs or other visuals to their posts. New lawyers should use blogging as a client development tool. This requires understanding the search-engine optimization ("SEO") work that happens behind the blog and in the blog content itself, in order to effectively target prospective clients.

D.   *Selecting Social Media Tools and Best Practices*

Law students are already engaged in many of the social media applications that they will use as professionals. However, most of them have never considered the best practices that will be necessary to continue to use those same platforms and others after entering private practice. The selection of client development applications requires students to analyze the terms and conditions of use for the application. Each social media application offers a slightly different platform for communication. Each one raises its own unique security, privacy and confidentiality issues. The companies producing these free platforms for communication developed their products for use by the general public, not necessarily for professionals or even primarily for other business use. Lawyers using the applications are responsible for understanding their terms of use and privacy policies. They must also understand that they will not be able to negotiate a change of terms, even if such change would help the lawyer comply with the rules of professional conduct. This means law students need to have an education in the ethics issues that may arise and best practices needed to maintain professionalism in a largely uncharted online social environment.[79]

E.   *Marketing Applications*

Aside from the use of websites, blogs and social media applications, lawyers are faced with a variety of new methods of online advertising that may be used for client development.[80] This includes the opportunity for lawyers to work with online marketing tools, such as

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[79]. *See generally* Steven C. Bennett, *Ethics of Lawyer Social Networking*, 73 ALA. L. REV. 113 (2009).

[80]. *See* STEPHANIE KIMBRO, CONSUMER LAW REVOLUTION: THE LAWYER'S GUIDE TO WORKING WITH ONLINE MARKETING TOOLS (2013), *available at* http://www.jdsupra.com/legalnews/consumer-law-revolution-the-lawyers-gu-72765/.

online Q & A forums, directories, video or real-time chat, and other services delivered directly to consumers by for-profit companies outside the legal profession that avail themselves of various technology platforms.81 Other marketing applications are available for lawyers to use, which provide valuable analytical tools for strategic online marketing and client development.82 Law students must understand how these new options in online legal service delivery impact their potential target client base and how they may use these marketing applications to generate leads for their own practices. Because these companies are not bound by the same rules of professional conduct as lawyers, it is imperative that law students enter into practice knowing how to responsibly use the marketing tools provided by these companies.

F.   Lead Generation Web Sites

Lawyers use online lead generation services that match individually warm leads and prospective clients with lawyers in compatible practice areas. This business model measures success by analyzing conversion rates—or how often a warm lead is converted into a paying client by the lawyer who received that direct lead from the company's

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81. *See, e.g.*, SMART LEGAL FORMS, http://www.smartlegalforms.com/ (last visited Apr. 20, 2013); LAWZAM, https://www.lawzam.com/ (last visited Apr. 20, 2013); ATTORNEYFEE, http://attorneyfee.com/ (last visited Apr. 20, 2013); LAWGIVES, https://lawgives.com/ (last visited Apr. 20, 2013); LEXSPOT, https://lexspot.com/ (last visited Apr. 20, 2013); EAGLEFEE, http://www.eaglefee.com/ (last visited Apr. 20, 2013); LAW99, http://www.law99.com/ (last visited Apr. 20, 2013); MY LEGAL BRIEFCASE, https://www.mylegalbriefcase.com/ (last visited Apr. 20, 2013); LAWDINGO, https://www.lawdingo.com/ (last visited Apr. 20, 2013); UPCOUNSEL, https://www.upcounsel.com/ (last visited Apr. 20, 2013); LEGALFORCE (TRADEMARKIA), http://www.legalforce.com/ (last visited Apr. 20, 2013); LAWGURU, http://www.lawguru.com/ (last visited Apr. 20, 2013); FIZZLAW, http://www.fizzlaw.com/ (last visited Apr. 20, 2013); LAW QA, http://www.lawqa.com/ (last visited Apr. 20, 2013); PEARL, http://www.pearl.com/ (formerly JustAnswer) (last visited Apr. 20, 2013); VIRTUAL LAW DIRECT, https://www.virtuallawdirect.com/ (last visited Apr. 20, 2013); YODLE LAW, http://www.yodlelawmarketing.com/ (last visited Apr. 20, 2013); LEGALREACH, http://www.legalreach.com/ (last visited Apr. 20, 2013); EXPERTHUB, http://experthub.com/ (last visited Apr. 20, 2013); LEGALMATCH, http://www.legalmatch.com/ (last visited Apr. 20, 2013); MYLAWSUIT, http://mysuit.com/ (last visited Apr. 20, 2013); JURIFY, http://jurify.com/ (last visited Apr. 20, 2013); ATTORNEYBOOST, http://www.attorneyboost.com/ (last visited Apr. 20, 2013); FINDLAW, http://www.findlaw.com/ (last visited Apr. 20, 2013); NOLO, http://www.nolo.com/ (last visited Apr. 20, 2013); TOTAL ATTORNEY'S, http://www.totalattorneys.com/ (last visited Apr. 20, 2013); AVVO, http://www.avvo.com/ (last visited Apr. 20, 2013); LEGAL CRUNCH, http://www.legalcrunch.com/ (myRight.me) (last visited Apr. 20, 2013); JUSTIA, http://www.justia.com/ (last visited Apr. 20, 2013); JDSUPRA LAW NEWS, http://www.jdsupra.com/ (last visited Apr. 20, 2013); DOCRACY, http://www.docracy.com/ (last visited Apr. 20, 2013); SHPOONKLE, http://www.shpoonkle.com (last visited Apr. 20, 2013); and EXPERTBIDS, INC., https://www.expertbids.com/ (last visited Apr. 20, 2013).

82. *See, e.g.*, HUBSPOT, www.hubspot.com (last visited Apr. 20, 2013).

service. To achieve high conversion rates, the company has to focus on the quality of the leads that they generate and direct to the lawyer. Accordingly, many of these companies use strategies that focus on specific practice areas so that they draw traffic to web content that satisfies the legal needs of prospective clients. Law students may need to use some form of lead generation service, especially if they are planning on developing an online client base for their law practice. Therefore, law students must understand what these services offer and how lead generation sites operate to deliver leads. Most importantly, they must be taught how to convert those leads into paying clients for their law practice.

G.   Ethical Rules Governing Client Development: Understanding the Basics

Law students should examine the ethics issues that may arise in the various methods of client development discussed above. For many state bars, the use of the Internet for client development is still largely a gray area. Lawyers must often independently interpret existing ethics rules and decide how best to use these tools in practice management. Law students would benefit from studying existing ABA and state bar opinions and reports on the use of technology in client development. For example, students should review the ABA Commission on Ethics 20/20's issues paper on the use of Internet tools for client development as well as the sources cited in that report.[83]

V. PAYMENT SYSTEMS

Payment of legal fees in a bygone era was a simple as receiving a check in the mail and depositing the check into the law firm's bank account. Today, payment of legal fees often requires some form of credit facility that law firms can make available to their clients. At one point, legal fees could not even be paid with a credit card, much less paid online.

Today there are rules that govern the payment of legal fees by credit card, and lawyers must abide by those rules to maintain the in-

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83. *Issues Paper Concerning Lawyers' Use of Internet Based Client Development Tools*, ABA COMMISSION ON ETHICS 20/20 (Sept. 20, 2010), http://www.americanbar.org/content/dam/aba/migrated/2011_build/ethics_2020/clientdevelopment_issuespaper.authcheckdam.pdf.

tegrity of attorney trust accounts.84 Attorneys who violate these rules are subject to action by the state's disciplinary board.

Moreover, lawyers who mismanage trust accounts can face terrible consequences. Law schools fail to train law students on how to handle trust accounts. Even seasoned lawyers struggle with all of the requirements contained in Model Rule 1.5.

CONCLUSION

The teaching of law practice management has always been a marginalized course of study within the J.D. curriculum. During the last decade, the rise of the Internet has caused systemic changes in the way lawyers practice law. It has altered the demand for legal services from lawyers, which in turn, has impacted the employment prospects for lawyers. When a large percentage of graduating law students are faced with the prospect of starting their own practice upon graduation, rather than working as a lawyer for someone else, the need for being "practice-ready" upon graduation is now an imperative. Being "practice-ready" means more than just learning the principles of substantive law—it also means having essential knowledge in law practice management in a digital age which will become the basis for a successful law career as a private practitioner.

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84. *See e.g.*, RULES REGULATING THE FLORIDA BAR 5-1.1, *available at* http://www.floridabar.org/divexe/rrtfb.nsf/FV/6D5B076E51CCBC9985257172004C0105 (last visited Apr. 28, 2013) (rule regarding trust accounts); *D.C. Court of Appeals Adopts Amendments to IOLTA Rules*, D.C. BAR, http://www.dcbar.org/for_lawyers/ethics/legal_ethics/iolta_amended.cfm (last visited Apr. 29, 2013); Client Trust Account Handbook, ILLINOIS ATTORNEY REGISTRATION & DISCIPLINARY COMMISSION, http://www.iardc.org/toc_main.html (last visited Apr. 28, 2013).