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## Getting into the Field

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## GETTING INTO THE FIELD

*Jay A. Mitchell\**

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A group of students enrolled in a law school clinic wanders through a large farmers' market. They stop to chat with the proprietors of a farm that has sold vegetables at the market for many years. They visit with a cheesemaker and an apple grower. A second group learns about the economic costs of organic production from a farmer and talks with an olive oil producer. Both sets of students seem unusually attentive to their surroundings. That may be because the first group helped the sponsor of the market rework the market's rules and regulations, and the second developed a site agreement for use by the sponsor in securing new locations. They had spent a lot of time thinking about market operations and how best to reflect them in contract documents.

Meanwhile, a professor at another school who teaches torts reflects on contemporary critiques of legal education and wonders how to create meaningful experiential learning opportunities for her students. The director of the school's clinical education program chats with the head of the public interest center about client ideas; they both are keen to find more business-oriented projects, and to extend the geographical reach of the school. The torts teacher joins them and they brainstorm: where best to look for such projects? The prospecting ideal, they conclude, would be an area that is (i) characterized by a diversity of actors and legal issues, (ii) commercial in nature but with pro bono dimensions (iii) appealing to students, and (iv) important on social and humanitarian grounds. The colleagues decide to continue their conversation over lunch in a neighborhood café that offers a seasonal menu based on locally-sourced produce and meat.

The faculty members went to the right place. Their restaurant choice, and the students' trip to the farmers' market, suggest an opportunity for law school experiential education programs: working with organizations and individuals active in agriculture and the food system. Structural and other features of the food system make it an unusually attractive source of projects for transactional and community-development clinics, and for other programs focused on experiential learning in non-litigation settings. This article, which is written from the perspective not of a scholar or practitioner of agriculture or food law, but instead that of a corporate lawyer who directs a transactional clinic targeted at students who typically begin their careers in large urban law firms, describes system features and the experiences of one clinic in engaging with food system clients. Farm-to-table, it turns out, is a productive path to corporate practice and professional formation.

Part I of this article identifies food system features that make the sector an excellent project source for experiential programs of diverse design, discusses system attributes that may promote student interest and engagement, and offers observations about deployment of legal talent and pro bono resources to the sector. Part II reviews the experience of the Organizations and Transactions Clinic at Stanford Law School in representing clients active in the sector. It summarizes the clinic's projects, describes skill development and other benefits from those engagements relevant to preparation for corporate practice, and notes several challenges in working with such clients. Part III is a conclusion.

## I. FOOD SYSTEM AS SOURCE OF PROJECTS

The food system is characterized by structural features and other attributes that make it attractive as a source of projects for experiential programs of diverse design and objective. The system features a wide variety of activities, actors, legal issues and literature. Food is a familiar and tangible everyday presence, and a subject of intense public interest, regulatory attention, commercial evolution, and sector innovation. System actors include individuals and organizations conventionally represented by clinics and pro bono programs. More broadly, food is a basic human need, and its production, distribution, and consumption present issues of deeply important social concern. These factors yield considerable opportunities for experiential programs, considerable potential for student engagement, and considerable rationale and motivation for dedication of pro bono resources. Part I discusses those factors.

### *A. Structural Features*

*Diverse Activities and Participants.* The food system is characterized by an extraordinary variety of activities and participants. It consists of the "people and resources involved in producing, processing, distributing and consuming food."<sup>1</sup> The system includes:

all processes involved in keeping us fed: growing, harvesting, processing (or transforming or changing), packaging, transporting, marketing, consuming and disposing of food and food packages... the inputs needed

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1. *Exploring the Roots of Our Name*, CTR. FOR AGROECOLOGY & SUSTAINABLE FOOD SYS., <http://casfs.uscs.edu/> (last visited Apr. 11, 2011) (excerpt from food system definition of the Center for Agroecology and Sustainable Food Systems at the University of California, Santa Cruz).

and outputs generated at each steps... operat[ing] within and ... influenced by social, political, economic and natural environments.<sup>2</sup>

This breadth and scale means the sector is populated by a diverse set of actors that operate in rural, suburban, and urban locations. Individuals, families, corporations, cooperatives, governmental agencies, nonprofit organizations, social enterprises, councils, informal associations, community activists, and educational institutions are all involved in food production, marketing, and distribution. The pervasiveness of the system and its array of activities and actors are valuable from an experiential program perspective: potential clients are everywhere no matter the target client profile of a program, and the richness of what they do suggests the availability of relevant project opportunities. An entrepreneurship law clinic can assist a beginning farmer or owner of a new restaurant with entity choice, a second program designed to provide students with policy and legislative experiences can support a local food policy council, and a third focused on transactional work can prepare contract documents for a community-garden sponsor or farmers' market operator.

*Diverse Legal Issues.* Food system actors generate a wide variety of legal problems across multiple disciplines.<sup>3</sup> Susan A. Schneider, a leading scholar of agricultural law, observes that agricultural law could include study of any of these topics:

The government's regulation of agricultural production and the sale of agricultural commodities including the study of the federal farm programs...the government's regulation of food through the statutes implemented by both the FDA and the USDA, including efforts to regulate food safety, food labeling and production claims such as the organic standards; the application of commercial laws to agriculture, including...UCC Articles 2, 7 and 9 as well as the Bankruptcy Code; governmental entities and programs established to promote agriculture, including USDA lending programs and the Farm Credit System...; the adaptation of business structures, such as agricultural cooperatives to agricultural operations; the regulation of natural resource use and efforts to protect the environment from degradation [and] efforts to develop a

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2. JENNIFER WILKINS & MARCIA EAMES-SHEAVLY, *Discovering the Food System; A Primer on Community Food Systems: Linking Food, Nutrition and Agriculture*, CORNELL UNIVERSITY, <http://www.discoverfoodsyst.com/cornell.edu/primer.html> (last visited May 26, 2011).

3. See Roger A. McEowen, *Agricultural Law Developments Shaping the Sector and Legal Practice*, 14 DRAKE J. AGRIC. L. 1 (2009); Neil D. Hamilton, *Emerging Issues of 21<sup>st</sup> Century Agricultural Law and Rural Practice*, 12 DRAKE J. AGRIC. L. 79 (2007); Neil D. Hamilton, *Sustainable Agriculture: The Role of the Attorney*, [1990] 20 *Envtl. L. Rep.* (Envtl. Law. Inst.) 10,021.

sustainable model for production; legal and policy issues regarding land tenure, farm structure, and the ownership of incidents of production; the regulation of animal husbandry and the [related] ethics and cultural issues; international trade in agriculture products and the global impact of domestic production and consumption patterns; agricultural labor law.; food security, insecurity, poverty and the right to food as a human right; the use and regulation of technology, including biotechnology, and intellectual rights associated with agricultural production; agricultural taxation and planning for generational transfer of agricultural assets; the encouragement, regulation and consequences of agricultural production of biofuels; [and] agricultural and rural residency, including topics such as rural poverty, population decline and rural development initiatives.<sup>4</sup>

This vast range of subject matters facilitates program design and client development: there are opportunities for students to engage with a variety of legal subject matters in a variety of modes. Projects such as drafting participation or volunteer documents for on-site agricultural education or conservation programs draw on contract, property, and tort law, and call upon drafting and counseling skills. Policy and advocacy work relating to zoning and permitting requirements for urban agricultural activities or rules for farm-apprenticeship programs, and of course projects involving environmental law or the principal federal programs relating to production agriculture, require immersion in complex regulatory regimes and engagement with public agencies. The variety of issues and angles of approach to them present opportunities to interact with practitioners, legislators, and public agencies in the community,<sup>5</sup> and with faculty in the law school and across the university.<sup>6</sup>

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4. Susan A. Schneider, *What is Agricultural Law?*, AGRIC. L. UPDATE, Jan. 2009, at 1, 3, available at <http://www.nationalaglawcenter.org/assets/aala/1-09.pdf>.

5. For example, students at Drake University Law School have opportunities to work in the field with public agencies; the school's Agricultural Law Center facilitates student internships at state and federal institutions devoted to agricultural issues, including the state office of the USDA Farm Services Agency, the Iowa Natural Heritage Foundation, the Rural Concern Hotline, the farm division of the Iowa Department of Justice, and the Office of General Counsel of the USDA in Washington, D.C. *Academics*, LAW.DRAKE.EDU (Feb. 20, 2011), <http://www.law.drake.edu/academics/agLaw/?pageID=agCourses>. Students at the University of Nebraska College of Law can participate in the Environmental and Agricultural Law Society, including attending agricultural law field trips to meet leaders in the field. For example, interested students attend the annual conference of the American Agricultural Law Association, listening to presentations and networking with other students, professionals, and scholars with similar interests. The society also provides students with opportunities to work cooperatively with professors on proposed agricultural legislation and research projects. *In Brief*, THE NEB. TRANSCRIPT, Spring 2010, at 20, available at [http://law.unl.edu/alumni/transcript/docs/20\\_](http://law.unl.edu/alumni/transcript/docs/20_)

*Commercial Nature.* The food system involves the production, marketing, and distribution of tangible products. Farmers sell goods; California farmers, for example, generated revenues of \$36.2 billion in 2008.<sup>7</sup> Sustainability is understood to include farm economic viability.<sup>8</sup> Food system work involves access to land and capital, production and processing, marketing and physical distribution; indeed, a major challenge to the development of regional food systems is an absence of distribution infrastructure,<sup>9</sup> and a challenge to

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InBrief.pdf. Students at Harvard Law School are involved in a variety of policy projects through the school's Food Policy Initiative. Projects include assisting food policy councils, assessing food safety regulation impact on small local producers, supporting development of rural farmers' markets including use of federal food benefits at such markets, developing recommendations relating to access to produce for low-income individuals, and studying barriers to direct-to-institution sales by farmers, with the work including meetings with state legislators and agency staff. *Food Policy Initiatives*, HARV. L. SCH., <http://www.law.harvard.edu/academics/clinical/delta/initiatives/foodpolicy.html> (last visited Apr. 11, 2011). Students participate through a variety of programs including the school's Health Law and Policy Clinic and Mississippi Delta Projects, and a student-established food law society. *See id.*; Susan A. Schneider, *Food & Agriculture at Law Schools: Harvard Law School*, AGRIC. L. BLOG (Feb. 26, 2011, 8:18 PM), <http://aglaw.blogspot.com/2011/02/food-agriculture-at-law-schools-harvard.html>.

6. For example, the Agricultural Law Resource and Reference Center at Pennsylvania State University is a collaboration between the university's Dickinson School of Law and the College of Agricultural Sciences. The center provides research, educational programs and information about agricultural law and policy. *About the Center*, LAW.PSU.EDU, [http://law.psu.edu/academics/research\\_centers/agricultural\\_law\\_center/about\\_the\\_center](http://law.psu.edu/academics/research_centers/agricultural_law_center/about_the_center) (last visited May 18, 2011). *See also infra* note 45.

7. CAL. DEP'T OF FOOD & AGRIC., CALIFORNIA AGRICULTURAL HIGHLIGHTS 2010 2 (2010), available at [http://www.cdffa.ca.gov/statistics/PDFs/ResourceDirectory\\_2009-2010.pdf](http://www.cdffa.ca.gov/statistics/PDFs/ResourceDirectory_2009-2010.pdf).

8. Federal law defines sustainable agriculture as an "integrated system of plant and animal production practices . . . that will, over the long term . . . sustain the economic viability of farm operations." 7 U.S.C. § 3103(19) (2006). A publication by Sustainable Agriculture Research and Education includes "profit over the long term" as one of "three pillars of sustainability." SUSTAINABLE AGRIC. RESEARCH & EDUC., WHAT IS SUSTAINABLE AGRICULTURE? 2, available at <http://www.sare.org/index.php/content/download/660/5688/file/What%20is%20Sustainable%20Agriculture.pdf>.

9. *See* STEVE MARTINEZ ET AL., ECON. RESEARCH SERV., U.S. DEP'T OF AGRIC., LOCAL FOOD SYSTEMS: CONCEPTS, IMPACTS AND ISSUES iv (2010), available at <http://www.ers.usda.gov/Publications/ERR97/ERR97.pdf> [hereinafter USDA REPORT] ("Barriers to local food-market entry include: capacity-constraints for small farms and lack of distribution systems for moving local food into mainstream markets; limited research, education and training for marketing local food; and uncertainties related to regulations that may affect local food production, such as food safety requirements."). The California State Board of Food and Agriculture, as part of its strategic planning work, identified development of regional food marketing

access to healthy food in low-income communities is an absence of retail outlets.<sup>10</sup> The context of the work is commercial—there is considerable material for students interested in business and business law, and even a clinic representing nonprofit organizations may encounter meaningful production, distribution, and marketing issues. Food banks, for example, manage complex logistical and contractual relationships involving product sourcing, intake, storage, and distribution through multiple sites, and hands-on agricultural education or other land-based programs deal with leasing and risk-management issues.

*Innovation.* There is considerable ongoing innovation in the sector. For example, there are an expanding number of programs directed at beginning farmers.<sup>11</sup> Municipalities and nonprofits are developing urban and urban-edge agriculture programs.<sup>12</sup> Busi-

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opportunities as a near-term focus area, noting that “a key issue for study should be infrastructure shortcomings (processing and distribution) and regulatory barriers that now inhibit regional marketing options for producers.” MICHAEL DIMOCK & RICH MATTEIS, STATE BD. OF FOOD & AGRIC., AGVISION 2030 IMMEDIATE ACTION ITEMS RECOMMENDED TO THE STATE BOARD OF FOOD AND AGRICULTURE BY THE CALIFORNIA AGRICULTURAL VISION ADVISORY COMMITTEE 3 (Jun. 30, 2010), available at [http://www.cdfa.ca.gov/agvision/docs/Immediate\\_Action\\_Items.pdf](http://www.cdfa.ca.gov/agvision/docs/Immediate_Action_Items.pdf).

10. See MICHELE VER PLOEG, ET AL. ECON. RESEARCH SERV., FOOD AND NUTRITION SERV., COOP. STATE RESEARCH & EDUC. AND EXTENSION SERV., U.S. DEP’T OF AGRIC., ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD: MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES (2009), available at <http://www.ers.usda.gov/Publications/AP/AP036/AP036.pdf>.

11. See generally Kim L. Niewolny & Patrick T. Lillard, *Expanding the Boundaries of Beginning Farmer Training and Program Development: A Review of Contemporary Initiatives to Cultivate a New Generation of American Farmers*, 1 J. AGRIC. FOOD SYS. & COMMUNITY. DEV. 65 (Aug. 2010), available at [http://www.agdevjournal.com/attachments/106\\_JAFSCD\\_Expanding\\_Boundaries\\_of\\_Beginning\\_Farmer\\_Programs\\_08-10.pdf](http://www.agdevjournal.com/attachments/106_JAFSCD_Expanding_Boundaries_of_Beginning_Farmer_Programs_08-10.pdf) (surveying beginning farmer programs, identifying emerging practices and offering recommendations for program sponsors and researchers).

12. For example, Sustainable Agriculture Education, a Northern California nonprofit organization, has published a toolkit and other materials relating to “urban edge agricultural parks,” which it describes as “part working agriculture for small farmers, and part parkland for local communities.” *Urban Agricultural Parks*, SUSTAINABLE AGRIC. EDUC., <http://www.sagecenter.org/projects/urban-edge-agricultural-parks/> (last visited May 18, 2011). The organization manages such a park in Alameda County, California. *Id.* See also Megan Masson-Minock & Deirdra Stockman, *Creating a Legal Framework for Urban Agriculture: Lessons from Flint, Michigan*, 1 J. AGRIC. FOOD SYS. & COMMUNITY DEV. 91 (Fall 2010); Kathryn A. Peters, Note, *Creating a Sustainable Urban Agricultural Revolution*, 25 J. ENVTL. L. & LITIG. 203 (2010). The United States Department of Agriculture National Agriculture Library maintains a collection of links to materials about urban agriculture. Alt. Farming Sys. Info. Ctr., Nat’l Agric. Library, U.S. Dep’t of Agric., *Urban Agriculture*, USDA.GOV, [http://afsic.nal.usda.gov/nal\\_display/index.php?info\\_center=2&tax\\_level=2](http://afsic.nal.usda.gov/nal_display/index.php?info_center=2&tax_level=2)



nesses, public agencies, nonprofits, and academics are working on “food aggregation hubs” and other models for facilitating market access for small farmers and, more generally, creating needed infrastructure.<sup>13</sup> Academics and practitioners are developing “sustainable farm leases” and related tools for farmers.<sup>14</sup> There is increasing attention to creation of new “community,” “social,” and other financing vehicles targeted to local food system actors.<sup>15</sup> All of these innovations have legal dimensions; food hubs, for example, involve structural, governance, tax, contracting, branding, and compliance issues. The new models present opportunities for creative and challenging legal work, and for working with imaginative and influential leaders in the field.

*Literature.* The sector has a large and growing literature. In 2011, Susan Schneider published a wide-ranging collection of readings on agricultural law and policy issues.<sup>16</sup> Scholars, students, and other commentators write articles in diverse publications about policy,<sup>17</sup> regulatory,<sup>18</sup> constitutional,<sup>19</sup> environmental,<sup>20</sup> property,<sup>21</sup> tort,<sup>22</sup>

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&tax\_subject=301&level3\_id=0&level4\_id=0&level5\_id=0&topic\_id=2719&&placement\_default=0 (last visited Apr. 11, 2011).

13. See, e.g., Alan Borst, *Cooperative Food Hubs: Food Hubs Fill the ‘Missing Middle,’ Helping Small Producers Tap Local Markets*, RURAL COOPERATIVES, Nov.–Dec. 2010, at 20, available at <http://www.rurdev.usda.gov/rbs/pub/nov10/nov10.pdf>; ERROL BRAGG & JIM BARHAM, KNOW YOUR FARMER, KNOW YOUR FOOD, REGIONAL FOOD HUBS: LINKING PRODUCERS TO NEW MARKETS (2010), available at <http://nercrd.psu.edu/localfoods/USDAFoodHubPresentation.5.24-1.pdf>.

14. See, e.g., SUSTAINABLE FARM LEASE, <http://www.sustainableaglandtenure.com> (last visited Apr. 11, 2011) (describing the work of the Sustainable Agricultural Land Tenure Initiative of the Drake Agricultural Law Center and the Leopold Center for Sustainable Agriculture at Iowa State University).

15. A collection of links to resources relating to emerging “food finance” is found at *Capital Cookbook Blog*, CAP. COOKBOOK, <http://capitalcookbook.com/blog> (last visited May 18, 2011).

16. SUSAN A. SCHNEIDER, FOOD, FARMING AND SUSTAINABILITY (2011).

17. See, e.g., Mary Jane Angelo, *Corn, Carbon, and Conservation: Rethinking U.S. Agricultural Policy in a Changing Global Environment*, 17 GEO. MASON L. REV. 593 (2010); Susan A. Schneider, *A Reconsideration of Agricultural Law: A Call for the Law of Food, Farming, and Sustainability*, 34 WM. & MARY ENVTL L. & POL’Y REV. 935 (2010); JILL E. KREUGER, KAREN R. KRUB & LYNN A. HAYES, FARMER’S LEGAL ACTION GRP. INC., PLANTING THE SEEDS FOR PUBLIC HEALTH: HOW THE FARM BILL CAN HELP FARMERS TO PRODUCE AND DISTRIBUTE HEALTHY FOODS (Aug. 2010), available at <http://www.flaginc.org/topics/pubs/arts/PlantingTheSeeds.pdf> [hereinafter FLAG REPORT].

18. See, e.g., Ellen Fried & Michele Simon, *The Competitive Food Conundrum: Can Government Regulations Improve School Food?*, 56 DUKE L.J. 1491 (2007); Donald T. Hornstein, *The Road Also Taken: Lessons from Organic Agriculture for Market- and Risk-Based Regulation*, 56 DUKE L.J. 1541 (2007).

homeland security,<sup>23</sup> local,<sup>24</sup> urban,<sup>25</sup> health and nutrition,<sup>26</sup> community,<sup>27</sup> civil rights,<sup>28</sup> and other aspects of food production and distri-

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19. See, e.g., Brannon P. Denning, Samantha Graff & Heather Wooten, *Laws to Require Purchase of Local Grown Food and Constitutional Limitations on State and Local Government: Suggestions for Policymakers and Advocates*, 1 J. AGRIC. FOOD SYS. & COMMUNITY. DEV. 139 (Aug. 2010); Anthony Schutz, *Nebraska's Corporate-Farming Law and Discriminatory Effects Under the Dormant Commerce Clause*, 88 NEB. L. REV. 50 (2009); Samantha K. Graff, *First Amendment Implications of Restricting Food and Beverage Marketing in Schools*, 615 ANNALS AM. ACAD. POL. & SOC. SCI. 157 (Jan. 2008).

20. See, e.g., William S. Eubanks II, *A Rotten System: Subsidizing Environmental Degradation and Poor Public Health with Our Nation's Tax Dollars*, 28 STAN. ENVTL. L.J. 213 (2009); Scott C. Lucas, *Halting the Downward Spiral of Monoculturation and Genetic Vulnerability: Toward a Sustainable and Biodiverse Food Supply*, 17 J. ENVTL. L. LITIG. 161 (2002); J.B. Ruhl, *Farms, Their Environmental Harms, and Environmental Law*, 20 ECOLOGY L.Q. 263 (2000).

21. Alan Romero, *Rural Property Law*, 112 W. VA. L. REV. 765 (2010); Allyson C. Spacht, Note, *The Zoning Diet: Using Restrictive Zoning to Shrink American Waistlines*, 85 NOTRE DAME L. REV. 391 (2009).

22. See, e.g., Terence J. Centner, *Liability Concerns: Agritourism Operators Seek a Defense Against Damages Resulting from Inherent Risks*, 19 KAN. J.L. & PUB. POL'Y 102 (2009); David L. Morenoff, *Lost Food and Liability: The Good Samaritan Food Donation Law Story*, 57 FOOD & DRUG L.J. 107 (2002); Terence J. Centner, *The New Pick-Your-Own Statutes: Delineating Limited Immunity from Tort Liability*, 30 U. MICH. J.L. REFORM 743 (1997); Brandon Baird, Note, *The Pending Farmers' Market Fiasco: Small-Time Farmers, Part-Time Shoppers, and a Big-Time Problem*, 1 KY. J. EQUINE AGRIC. & NAT. RESOURCES L. 49 (2008).

23. See, e.g., A. Bryan Endres & Jody M. Endres, *Homeland Security Planning: What Victory Gardens and Fidel Castro Can Teach Us in Preparing for Food Crises in the United States*, 64 FOOD & DRUG L.J. 405 (2009).

24. See, e.g., Derrick Braaten & Marne Coit, *Legal Issues in Local Food Systems*, 15 DRAKE J. AGRIC. L. 9, 13 (2010); Marne Coit, *Jumping on the Next Bandwagon: An Overview of the Policy and Legal Aspects of the Local Food Movement*, 4 J. FOOD L. & POL'Y 45 (2008); Christina Fox, Comment, *Teach A Man: Proactively Battling Food Insecurity by Increasing Access to Local Foods*, 4 J. FOOD L. & POL'Y 243 (2008).

25. See, e.g., Catherine J. LaCroix, *Urban Agriculture and Other Green Uses: Remaking the Shrinking City*, 42 URB. LAW. 223 (2010); Masson-Minock & Stockman, *supra* note 12; Peters, *supra* note 12.

26. Obesity prevention is an example. See, e.g., Lawrence O. Gostin et al., *Assessing Laws and Legal Authorities for Obesity Prevention and Control*, 37 J. L. MED. & ETHICS 28 (2009); Seth E. Mermin & Samantha K. Graff, *A Legal Primer for the Obesity Prevention Movement*, 99 AM. J. PUB. HEALTH 1799 (Oct. 2009); Barbara L. Atwell, *Obesity, Public Health and the Food Supply*, 4 IND. HEALTH L. REV. 3 (2007); Margaret Sova McCabe, *The Battle of the Bulge: Evaluating Law as a Weapon Against Obesity*, 3 J. FOOD L. & POL'Y 135 (2007); Spacht, *supra* note 21.

27. See, e.g., Avi Brisman, *Food Justice as Crime Prevention*, 5 J. FOOD L. & POL'Y 1 (2009); Alfonso Morales & Gregg Kettles, *Healthy Food Outside: Farmers' Markets, Taco Trucks, and Sidewalk Fruit Vendors*, 26 J. CONTEMP. HEALTH L. & POL'Y 20 (2009); Amanda Shaffer et al., *Changing the Food Environment: Community Engagement Strategies and Place-Based Policy Tools that Address the Influence of Marketing*, 39 LOY. L.A. L. REV. 647 (2006); Jane E. Schukoske, *Community Development Through*

bution. There are journals focused on agricultural and food-law issues.<sup>29</sup> The National Agricultural Law Center maintains an online collection of articles and other resources,<sup>30</sup> and there is a growing body of materials targeted to practitioners.<sup>31</sup> Scholars, university departments, extension services, and nonprofits publish practical materials for sector actors.<sup>32</sup> Federal and state agencies, non-

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*Gardening: State and Local Policies Transforming Urban Open Space*, 3, N.Y.U. J. LEGIS. & PUB. POL'Y 351 (1999); Adrienne C. Crow, Note, *Developing Community Gardens: Removing Barriers to Improve Our Society*, 2 KY. J. EQUINE AGRIC. & NAT. RESOURCES L. 219 (2009); Dorothy A. Borrelli, Note, *Filling the Void: Applying a Place-Based Ethic to Community Gardens*, 9 VT. J. ENVTL. L. 271 (2008).

28. See, e.g., Nareissa Smith, *Eatin' Good? Not in this Neighborhood: A Legal Analysis of Disparities in Food Availability and Quality at Chain Supermarkets in Poverty-Stricken Areas*, 15 MICH. J. RACE & L. 197 (2009); Andrea Freeman, Comment, *Fast Food: Oppression through Poor Nutrition*, 95 CAL. L. REV. 2221 (2007).

29. These journals include the Drake Journal of Agricultural Law at Drake University School of Law (*available at* <http://students.law.drake.edu/agLawJournal/>), the Food and Drug Law Journal published by the Food and Drug Law Institute (*available at* <http://www.fdli.org/pubs/Journal%20Online/>), and the Journal of Food Law & Policy at the University of Arkansas School of Law (*available at* <http://law.uark.edu/current/journals/journal-of-food-law-policy.html>). There are also newer journals such as the Journal of Agriculture, Food Systems and Community Development (*available at* <http://www.agdevjournal.com/>). Legal journals of general interest sometimes devote entire issues to food policy issues. See, e.g., 21 STAN. J. LAW & POL'Y (2010) (food policy symposium issue).

30. The website includes a collection of articles, presentations, links and other resources. See Drew L. Kershen, *Agricultural Law Bibliography Introduction*, NAT'L AGRIC. L. CENTER, <http://www.nationalaglawcenter.org/bibliography> (last visited Mar. 11, 2011). Other resources include a blog maintained by the American Agricultural Law Association and the National Agricultural Law Center. *About this Blog*, U.S. AGRIC. & FOOD L. & POL'Y BLOG, <http://www.agandfoodlaw.com/2009/01/about-this-blog.html> (last visited Apr. 11, 2011).

31. For example, the Agribusiness Committee of the Business Law Section of the State Bar of California in 2010 published a "sourcebook" containing a "wide variety of forms . . . including real estate purchase agreements, leases, easements, intellectual property agreements, loan documents, farm labor contracts, crop purchase agreements and crop loss settlements." *The Agricultural Law Sourcebook CD*, BUSINESSLAW.CALBAR.CA.GOV, <http://businesslaw.calbar.ca.gov/Publications/AgriculturalLawSourcebookCD.aspx> (last accessed Apr. 11, 2011).

32. For example, Neil D. Hamilton, a prominent scholar and leader in agricultural law, published a book about practical aspects of direct marketing by farmers. NEIL D. HAMILTON, *THE LEGAL GUIDE FOR DIRECT FARM MARKETING* (1999). The University of California Division of Agriculture and Natural Resource publishes materials that are useful to lawyers and law students working on direct marketing and other matters for both institutional and individual clients. See, e.g., DESMOND JOLLY & CHRIS LEWIS, *A GUIDE TO MANAGING RISKS AND LIABILITY AT CALIFORNIA CERTIFIED FARMERS MARKETS*, *available at* <http://sfp.ucdavis.edu/Pubs/brochures/rmafmall0504.pdf>. Farmers' Legal Action Group, Inc. also publishes a variety of such materials. See, e.g., JAMES ANNA SPEIER & JILL E. KRUEGER, *FARMERS' LEGAL*

governmental organizations, and academics publish extensive research studies and policy papers.<sup>33</sup> The extensive literature provides not only resources for use in executing client assignments, but also considerable material for studying the contexts in which clients are operating, and for exposing students to the value of studying “industry” as well as legal sources as they do legal work. In addition, at a very practical level, the literature can generate ideas for client and project development. (Reading about the legal issues associated with farmers’ markets may, for example, prompt a program director to introduce herself to a local market sponsor.)

### *B. Student Interest and Engagement*

*Understandability.* Everybody—including law students—eats. Food is familiar and understandable. Students go to grocery stores, prepare meals, and dine at restaurants. Some students buy organic, shop at the local farmers market or campus farm stand every week,<sup>34</sup> seek connections to the origins of their food, and engage in the food policy debate.<sup>35</sup> Others may view healthy-food initiatives as yet another incursion of the nanny state. The fact that students may view food-system work from a philosophical or policy point of view is valuable. Students can approach engagements from a purely professional stance, focusing solely on the legal work, or they can embrace their clients and the normative underpinnings of their missions, and derive satisfaction both from the challenges of the techni-

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ACTION GRP., UNDERSTANDING FARMERS’ MARKET RULES (2006), available at <http://www.flaginc.org/topics/pubs/marketing.php#paca01>; FARMERS’ LEGAL ACTION GROUP, UNDERSTANDING FARMERS’ RIGHTS TO BE PAID FOR FRUIT AND VEGETABLE CROPS (2007), available at <http://www.flaginc.org/topics/pubs/arts/PACAart12007.pdf>.

33. For example, Farmers’ Legal Action Group, Inc. recently published a study of the impact of federal commodity, crop insurance and disaster protection, agricultural loan, conservation, research, rural development and nutrition programs on production and access to fruits and vegetables. See FLAG REPORT, *supra* note 17.

34. For example, a produce stand featuring local food operates periodically outside the student union at Stanford. *About the Farm Stand*, THE STAN. FARM STAND, <http://stanfordproduce.wordpress.com/> (last visited May. 19, 2011).

35. Student interest in the subject matter is reflected by the formation of a food law society at Harvard Law School in 2010. The society sponsors speakers and events, involves students in policy projects, maintains a blog, and provides information about career opportunities in food law and policy work. HARV. FOOD L. SOC’Y, <http://hlsfoodsociety.weebly.com/index.html> (last visited Apr. 11, 2011). In an interview, one of the founders reported “overwhelming” student interest in food policy issues, and that the society had 150 members as of February 2011. Schneider, *supra* note 5.

cal legal work and the opportunity to promote a philosophy or policy orientation with which they identify. Students of diverse beliefs can work meaningfully with a single client, a fact that reinforces the core principle that a lawyer is ethically bound to represent the client effectively whether or not she fully endorses the client's cause.

*Topicality.* The food system is topical. The explosion of public interest in food and nutrition does not require extensive elaboration.<sup>36</sup> Government agencies are engaged in visible initiatives relating to sustainability, local food systems, and healthy eating.<sup>37</sup> The

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36. The interest is reflected in the volume and success of general audience books by Michael Pollan and others about the sector. *See, e.g.*, NOVELLA CARPENTER, *FARM CITY: THE EDUCATION OF AN URBAN FARMER* (2010); JEFFREY MOURSSAIEFF MASSON, *THE FACE ON YOUR PLATE: THE TRUTH ABOUT FOOD* (2009); MICHAEL POLLAN, *IN DEFENSE OF FOOD: AN EATER'S MANIFESTO* (2008); MARION NESTLE, *HOW THE FOOD INDUSTRY INFLUENCES NUTRITION AND HEALTH* (2007); MICHAEL POLLAN, *OMNIVORE'S DILEMMA: A NATURAL HISTORY OF FOUR MEALS* (2006); MARION NESTLE, *WHAT TO EAT* (2006); ERIC SCHLOSSER, *FAST FOOD NATION* (2005). *See also* SCHNEIDER, *supra* note 16, at 51 (citing books and documentary films and observing that "there is undeniably an increasing interest in food and food systems in the United States"); Neil Hamilton, *Essay - Food Democracy and the Future of American Values*, 9 DRAKE J. AGRIC. L. 9 (2004).

37. For example, the United States Department of Agriculture ("USDA") in 2009 launched the "Know Your Farmer, Know Your Food" program. *See* Press Release, U.S. Dep't of Agric., *USDA Launches 'Know Your Farmer, Know Your Food' Initiative to Connect Consumers with Local Producers to Create New Economic Opportunities for Communities* (Sept. 15, 2009), *available at* <http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2009/09/0440.xml>. USDA describes the program as a "USDA initiative to promote sustainable local and regional food systems that will support farmers and ranchers, strengthen rural communities, promote healthy eating, and protect our natural resources." *Know Your Farmer, Know Your Food FAQs*, USDA.GOV, [http://www.usda.gov/wps/portal/usda/knowyourfarmer?navtype=KYF&navid=KYF\\_FAQ](http://www.usda.gov/wps/portal/usda/knowyourfarmer?navtype=KYF&navid=KYF_FAQ) (last visited Apr. 11, 2011). USDA recently published an extensive study of local food systems. *See* USDA REPORT, *supra* note 9. At the state level, the California State Board of Food and Agriculture, for example, is engaged in a large-scale "vision" process, involving engagement with multiple agricultural, environmental, consumer and other stakeholders, intended to "result in a strategic plan for the future of the state's agriculture and food system." *AgVision 2030*, CDFA.CA.GOV <http://www.cdca.ca.gov/agvision/> (last visited Apr. 11, 2011). As reported in *The New York Times*, "nearly every state now has programs that send fresh vegetables into poorer neighborhoods and school cafeterias." Kim Severson, *Told to Eat its Vegetables, America Orders Fries*, N.Y. TIMES, Sep. 25, 2010, <http://www.nytimes.com/2010/09/25/health/policy/25vegetables.html?scp=1&sq=told%20to%20eat%20its%20vegetables&st=cse>. Local governments adopt "food policies," create "food councils," and participate in "food system alliances" and other groups. For example, in San Francisco, the Mayor convened an "urban-rural roundtable" composed of commercial, nonprofit and government representatives to "develop an integrated set of recommendations for programs, incentives, strategies and practical actions that San Francisco could im-

world's largest retailer recently announced a new commitment to healthy food.<sup>38</sup> Commercial grocers feature organic and locally grown produce.<sup>39</sup> There is rapid growth in the number of farmers' markets.<sup>40</sup> Private foundations support large-scale programs targeted at sector development and nutrition.<sup>41</sup> Food recalls periodically lead the headlines,<sup>42</sup> and there is new federal food safety legislation.<sup>43</sup> Universities offer courses and experiential learning opportu-

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plement to support the regional agricultural economy and increase the amount of high quality, California grown food for all of our residents." ROOTS OF CHANGE, THE FINAL RECOMMENDATION OF THE SAN FRANCISCO URBAN-RURAL ROUNDTABLE (2009), available at <http://www.farmland.org/programs/states/ca/documents/FINALSFURRTRecommendation051509.pdf>. See also Neil D. Hamilton, *Putting a Face on our Food: How State and Local Food Policies Can Promote the New Agriculture*, 7 DRAKE J. AGRIC. L. 407 (2002).

38. See Sheryl Gay Stolberg, *Wal-Mart Shifts Strategy to Promote Healthy Food*, N.Y. TIMES, Jan. 20, 2011, [http://www.nytimes.com/2011/01/20/business/20walmart.html?\\_r=1&scp=1&sq=wal-mart%20healthy%20food%20initiative&st=cse](http://www.nytimes.com/2011/01/20/business/20walmart.html?_r=1&scp=1&sq=wal-mart%20healthy%20food%20initiative&st=cse).

39. See USDA REPORT, *supra* note 9, at 11-12. Wal-Mart Stores, Inc., in October 2010, announced a program focused on sustainable agriculture among its suppliers that is "intended to put more locally grown food in Wal-Mart stores in the United States, invest in training and infrastructure for small and medium-size farmers . . . and begin to measure how efficiently large suppliers grow and get their produce into stores." Stephanie Clifford, *Wal-Mart to Buy More Local Produce*, N.Y. TIMES, Oct. 15, 2010, <http://www.nytimes.com/2010/10/15/business/15walmart.html?scp=1&sq=wal-mart,%20a%20plan%20for%20more%20local%20food&st=Search>.

40. The USDA reports that in 2010 there are 6,132 farmers' markets in the United States, representing 16% growth over 2009. Press Release, U.S. Dep't of Agric., USDA Announces that National Farmers Directory Totals 6,132 Farmers Markets (Aug. 4, 2010), available at [http://www.usda.gov/wps/portal/usda!/ut/p/c5/04\\_SB8K8xLLM9MSSzPy8xBz9CP0os\\_gAC9-wMJ8QY0MDpxBDA09nXw9DFxcXQ-cAA\\_1wkA5kFaGuQBXcASBmnu4uBgbe5hB5AxxA0UDfzyM\\_N1W\\_IDs7zdFRUREAZXAypA!!/dl3/d3/L2dJQSEvUUt3QS9ZQnZ3LzZfUdHNVIZMVDMxMEJUMTBJQ01MURERDFDUDA!/?contentidonly=true&contentid=2010%2f08%2f0390.xml](http://www.usda.gov/wps/portal/usda!/ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os_gAC9-wMJ8QY0MDpxBDA09nXw9DFxcXQ-cAA_1wkA5kFaGuQBXcASBmnu4uBgbe5hB5AxxA0UDfzyM_N1W_IDs7zdFRUREAZXAypA!!/dl3/d3/L2dJQSEvUUt3QS9ZQnZ3LzZfUdHNVIZMVDMxMEJUMTBJQ01MURERDFDUDA!/?contentidonly=true&contentid=2010%2f08%2f0390.xml).

41. For example, childhood obesity prevention is a core program of the Robert Wood Johnson Foundation, one of the country's largest philanthropic organizations. The foundation's website describes the program's objective as "help[ing] all children and families eat well and move more—especially those in communities at highest risk for obesity. Our goal is to . . . improve[e] access to affordable healthy foods and increasing opportunities for physical activity in schools and communities across the nation." *Childhood Obesity*, ROBERT WOOD JOHNSON FOUND., <http://www.rwjf.org/childhoodobesity/> (last visited Apr. 11, 2011).

42. See, e.g., William Neuman, *An Iowa Egg Farmer and a History of Salmonella*, N.Y. TIMES, Sep. 21, 2010, [http://www.nytimes.com/2010/09/22/business/22eggs.html?\\_r=1&scp=2&sq=egg%20recall&st=cse](http://www.nytimes.com/2010/09/22/business/22eggs.html?_r=1&scp=2&sq=egg%20recall&st=cse).

43. FDA Food Safety Modernization Act, Pub. L. No. 111-353, 124 Stat. 3885 (2011).

nities<sup>44</sup> and host wide-ranging interdisciplinary conferences.<sup>45</sup> The everyday visibility of the sector highlights the relevance of client engagements. At a practical level, it adds to the appeal of the projects, prompts classroom discussion, and provides both students and instructors with a ready source of material to bring into the work.

### *C. Pro Bono and Public Interest Aspects*

*Clients.* Clinics and other experiential programs typically operate on a pro bono basis; they represent clients who cannot afford legal counsel or who are otherwise contemplated as recipients of pro bono services under professional responsibility principles.<sup>46</sup> The food system has no shortage of such persons. Many food system actors, in their operating models, missions, resource constraints, and communities served, are comparable to clients conventionally represented by experiential programs. It is easy to imagine students in a community development or community law clinic, or participating in a food-policy initiative, working on a matter involving access

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44. For example, Iowa State University offers a graduate program offering both masters and doctoral degrees in sustainable agriculture. See *Graduate Program in Sustainable Agriculture*, IOWA ST. U., <http://www.sust.ag.iastate.edu/gpsa/> (last visited Apr. 4, 2011). The USDA National Agriculture Library maintains an online listing of educational and other training opportunities in sustainable agriculture. *Educational and Training Opportunities in Sustainable Agriculture*, NAT. AGRIC. LIBR., [www.nal.usda.gov/afsic/pubs/edtr/EDTR2009.shtml](http://www.nal.usda.gov/afsic/pubs/edtr/EDTR2009.shtml) (last visited Apr. 4, 2011). See also SCHNEIDER, *supra* note 16, at 51 (noting that “universities, anxious to build on student interest, are developing food studies programs”).

45. For example, Stanford University in November 2010 hosted a “food summit” featuring speakers and workshop leaders from all of the university’s schools. Erin Digitale, *Food Summit Encourages Researchers to Collaborate Across Disciplines*, STAN. SCH. MED. (Nov. 4, 2010), <http://med.stanford.edu/ism/2010/november/food-1104.html>.

46. Rule 6.1 of the American Bar Association’s Model Rules of Professional Conduct provides that a lawyer should devote a substantial portion of his or her pro bono service to “(1) persons of limited means or (2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and (b) provide any additional services through: (1) delivery of legal services at no fee or substantially reduced fee to . . . charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization’s economic resources or would be otherwise inappropriate.” MODEL RULES OF PROF’L CONDUCT R. 6.1 (2010), available at [http://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_6\\_1\\_voluntary\\_pro\\_bono\\_publico\\_service.html](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_6_1_voluntary_pro_bono_publico_service.html).

to healthy food in low-income neighborhoods,<sup>47</sup> or students in a transactional clinic advising a limited-resource farmer about a lease or a food pantry about a contract. Moreover, a number of food system actors are located in rural areas or in smaller towns. Engagements with clients located in these communities represent a valuable and needed deployment of pro bono resources.<sup>48</sup> These engagements also provide a platform for developing relationships with other, non-food-system clients in those more distant locations<sup>49</sup> and a vehicle for extending law school activities beyond the immediate campus area.<sup>50</sup>

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47. See *supra* note 5 (describing projects undertaken by students in the Harvard Food Policy Initiative).

48. Rural communities are characterized by high levels of poverty and unemployment, and are underserved by legal and other resources. According to a report by the California Commission on Civil Justice, “rural California has more inadequate housing, higher unemployment, lower pay, lower average educational levels and less access to health care and transportation, compared with urban California . . . a larger percentage of rural than urban Californians are impoverished, elderly or living with disabilities . . . .” CAL. COMM’N ON ACCESS TO JUSTICE, IMPROVING CIVIL JUSTICE IN RURAL CALIFORNIA 5 (Sept. 2010), available at [http://cc.calbar.ca.gov/Portals/11/documents/accessJustice/CCA\\_J\\_201009.pdf](http://cc.calbar.ca.gov/Portals/11/documents/accessJustice/CCA_J_201009.pdf) [hereinafter CIVIL JUSTICE]. See also BARRY NEWSTEAD & PAT WU, THE BRIDGESPAN GRP., NONPROFITS IN RURAL AMERICA: OVERCOMING THE RESOURCE GAP (July 2009), available at <http://www.bridgespan.org/rural-funding.aspx?Resource=> (noting that “most persistent poverty in this country continues to be in rural America” and describing lack of funding and other resources for rural nonprofits). CIVIL JUSTICE describes a pervasive lack of access for rural residents to legal services in California. See CIVIL JUSTICE, *supra* note 48, at 5–11, 17–40; see also ABA STANDING COMM. ON PRO BONO & PUB. SERV. & THE CTR. FOR PRO BONO, RURAL PRO BONO DELIVERY: A GUIDE TO PRO BONO LEGAL SERVICE IN RURAL AREAS 7 (2003), available at [http://www.abanet.org/legalservices/probono/aba\\_rural\\_book.pdf](http://www.abanet.org/legalservices/probono/aba_rural_book.pdf) (noting that the ABA initiative on rural pro bono “grew out of the recognition of an extremely high level of client needs in rural areas . . . [d]espite the prevalence and persistence of poverty, clients in rural areas are often overlooked”).

49. See *infra* note 4.

50. Indeed, one law school in fall 2010 launched a clinic targeted at rural clients. The Rural Economic Development Clinic at the Dickinson School of Law at The Pennsylvania State University “was created to give students the opportunity to directly represent individuals and entities within the broad fields of agricultural, food, and energy law,” and to support “sustainable rural economic development.” *Frequently Asked Questions*, LAW.PSU.EDU, [http://law.psu.edu/academics/clinics\\_and\\_externships/rural\\_economic\\_development\\_clinic/faq\\_for\\_students](http://law.psu.edu/academics/clinics_and_externships/rural_economic_development_clinic/faq_for_students) (last visited Apr. 4, 2011). The clinic website notes that:

Rural America is vastly different than it was fifty years ago. Prosperity for many rural communities depends on innovative income-generating strategies, like extracting alternative energy sources . . . . With one of the nation’s largest rural populations, Pennsylvania’s economy is dependent on its rural communities. [T]he new Rural Economic Development Clinic



*Public Interest.* A second and broader observation about the deployment of pro bono resources to the system is the fundamental importance of food. Food is the most basic of human needs.<sup>51</sup> Food production and access have enormously significant human health, social, economic, environmental, political, and moral dimensions. Susan Schneider describes three “unique attributes of agricultural production” that are “areas of public interest:”

First, agricultural production is the primary way that we obtain food—a product that is essential to human health and survival. Both farmers and the public at large have a fundamental interest in the production of healthy foods, in policies that assure the safety of those foods, and the ready availability of healthy food to all segments of society. Second, agricultural production involves the production of living things, evoking ecological and moral issues that are completely different than the production of inanimate products..Third, agricultural production is heavily dependent upon the natural world and its resources—in particular, land and water—and it has been both a significant consumer of natural resources and a significant source of environmental degradation. Moreover, it remains heavily dependent on human resources, resources that in the past have often not been adequately respected.<sup>52</sup>

These aspects of the sector alone would seem enough to pique the interest of both law students and law faculty. They also would seem to call, in the strongest terms, for dedication of meaningful legal talent and energy to the field.

The food system, in short, is attractive as a project source no matter the location of the law school. System actors, whether they be individuals, businesses, or nonprofits, are everywhere—they operate in urban, suburban and rural areas. The system’s diversity of activities, actors, and legal issues, and its commercial nature, means experiential programs of diverse design and purpose can find relevant transactional, policy, and other non-litigation projects. The sector presents opportunities to engage with innovators and collaborators both inside and outside the law school. There is ample literature for learning about law and context. Food is understand-

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[will] support this important sector of our economy, giving law students hands-on learning experience in a wide variety of legal issues specifically faced by agricultural businesses and rural communities.

*News and Events*, LAW.PSU.EDU, [http://law.psu.edu/academics/clinics\\_and\\_extrnsips/rural\\_economic\\_development\\_clinic/news\\_and\\_events](http://law.psu.edu/academics/clinics_and_extrnsips/rural_economic_development_clinic/news_and_events) (last visited Apr. 4, 2011).

51. Schneider, *supra* note 17, at 946. See also Neil D. Hamilton, *The Study of Agricultural Law in the United States: Education, Organization and Practice*, 43 ARK. L. REV. 503, 504 (1990).

52. Schneider, *supra* note 17, at 947.

able to students, a subject of considerable public debate, and an area deeply appropriate for deployment of pro bono resources. The sector provides rich soil for the growth of new lawyers.

## II. STANFORD CLINIC

### A. Overview

Stanford Law School launched its transactional clinic, the Organizations and Transactions Clinic (“O&T”), in spring 2008.<sup>53</sup> O&T represents existing Northern California nonprofit organizations, most with annual revenues in the range of \$300,000 - \$5,000,000. O&T’s service scope is narrow: it focuses on corporate governance, contract and risk management matters. Students provide governance advice and documents, draft contract and management materials, plan and execute transactions, and analyze operating programs and contractual arrangements. O&T is designed to help prepare students for institutional corporate practice<sup>54</sup> and, at the same time, to help students see how corporate lawyers can serve community as well as commercial organizations through pro bono, board service, and volunteer activities.<sup>55</sup>

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53. Transaction-oriented clinics, like other law school clinics, are designed to give students practical experience through pro bono or low-cost representation of real clients on real matters. These clinics are targeted at students interested in business and corporate practice. They seek to help students develop core fact-finding, analytical, counseling and drafting skills; engagements can involve a wide variety of subjects including entity selection and formation, contract, lease, finance, intellectual property, employment, tax exemption and regulatory matters. Transactional clinics often represent low income individual entrepreneurs, small businesses and nonprofit organizations. Some represent only nonprofit organizations. Clinical courses focus on live client work but also often include a seminar or prerequisite course centered on subject-matters relevant to the client work and corporate practice generally. See generally ANTHONY J. LUPPINO, REPORT TO THE EWING MARION KAUFFMAN FOUNDATION - CAN DO: TRAINING LAWYERS TO BE EFFECTIVE COUNSELORS TO ENTREPRENEURS 19 (Jan. 2008), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1157065](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1157065) (identifying and describing transaction-oriented clinics). A list of clinics is maintained by the Ewing Marion Kauffman Foundation. *Law School Entrepreneurship Clinics*, ENTREPRENEURSHIP.ORG, <http://www.entrepreneurship.org/en/entrepreneurship-law/law-school-entrepreneurship-clinics.aspx> (last visited Apr. 4, 2011).

54. The vast majority of O&T students participate in summer programs or begin their careers in corporate practice groups, including merger and acquisition, capital markets, and licensing groups, at large law firms in major urban areas.

55. *Organizations and Transactions Clinic*, STAN. L. SCH. <http://www.law.stanford.edu/program/clinics/transactions/> (last visited Apr. 4, 2011).

O&T enrolls between eight and twelve students per quarter. It staffs all client projects with two-person teams. Teams generally work with three to four clients during a ten to eleven week quarter. Students also participate in a twice-weekly seminar. The university has a variety of faculty members engaged in programs involving the food system, but does not have a school of agriculture or agricultural-extension program.

## *B. Food System Clients and Projects*

### *I. Rationale*

O&T represented sixty-eight clients during its first six terms of operation. Food system organizations represented just under 30% of those clients. This emphasis represented a deliberate design decision made early on in the clinic's history. First, as just described, the sector seemed well-suited for a corporate practice based in a pro bono clinical program. Second, Stanford is located in an area bounded by major agricultural regions: the Salinas and Pajaro Valleys to the south, the Sacramento and San Joaquin Valleys to the east, the dairy operations and wine country to the north; and the berry, vegetable, and nursery regions to the coastal west and southwest.<sup>56</sup> Third, the San Francisco Bay Area is a center of sustainable agriculture and local-food activities, with a considerable population of nonprofit as well as commercial participants.<sup>57</sup> For example, in the Northern California nonprofit community alone, there are agricultural education, outreach, and advocacy organizations,<sup>58</sup> farmers' market operators,<sup>59</sup> food banks, and other organizations focused on providing underserved populations with access to healthy food and

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56. See generally PAUL F. STARRS & PETER GOIN, FIELD GUIDE TO CALIFORNIA AGRICULTURE 367 - 411 (Phyllis M. Faber & Bruce M. Pavlik eds., 2010); AM. FARMLAND TRUST, GREENBELT ALLIANCE & SUSTAINABLE AGRIC. EDUC., SUSTAINING OUR AGRICULTURAL BOUNTY: AN ASSESSMENT OF THE CURRENT STATE OF FARMING AND RANCHING IN THE SAN FRANCISCO BAY AREA (Mar. 2011), available at <http://www.sagecenter.org/wp-content/uploads/2009/05/sustaining-our-agricultural-bounty-january-20112.pdf>.

57. STARRS & GOIN, *supra* note 56, at 50-51, 372-76.

58. See, e.g., ECOLOGICAL FARMING ASS'N, <http://www.eco-farm.org> (last visited Apr. 4, 2011); COLLECTIVE ROOTS, <http://www.collectiveroots.org> (last visited Apr. 4, 2011); PIE RANCH, <http://www.pieranch.org> (last visited Apr. 4, 2011); SOIL BORN FARMS, <http://www.soilborn.org> (last visited Apr. 4, 2011).

59. See, e.g., *About Us*, AGRIC. INST. OF MARIN, <http://www.agriculturalinstitute.org/index/aboutUs> (last visited Apr. 4, 2011).

nutritional information,<sup>60</sup> and land trusts that enter into easements and other arrangements intended to maintain land in agricultural use.<sup>61</sup> There are also research organizations,<sup>62</sup> facilitation and consulting organizations,<sup>63</sup> gleaning organizations,<sup>64</sup> nonprofits seeking to provide fresh food and employment opportunities in support of low-income urban communities,<sup>65</sup> and organizations focused on facilitating intergenerational farm transitions.<sup>66</sup> And there are sponsors of community gardens and other urban agriculture sites,<sup>67</sup> nonprofits focused on environmental aspects of agriculture,<sup>68</sup> urban agricultural researchers and advocates,<sup>69</sup> organizations working to introduce veterans to employment in the agricultural industry,<sup>70</sup> and support organizations for beginning and limited-resource growers.<sup>71</sup> The emphasis did not primarily reflect a particular policy agenda or an effort to train students in agriculture law. Instead, the principal objective was securing challenging and engaging projects for helping prepare students for corporate practice and their responsibilities as lawyers.

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60. See, e.g., *About Us*, ALAMEDA COUNTY COMMUNITY FOOD BANK, [http://www.accfb.org/about\\_us.html](http://www.accfb.org/about_us.html) (last visited Apr. 4, 2011); COMMUNITY FOOD BANK OF SAN BENITO COUNTY, <http://www.communitypantry.com/Mission.asp> (last visited Apr. 4, 2011); SECOND HARVEST FOOD BANK OF SAN MATEO & SANTA CLARA COUNTIES, <http://www.shfb.org/> (last visited Apr. 4, 2011); CAL. ASS'N OF FOOD BANKS, <http://www.cafoodbanks.org> (last visited Apr. 4, 2011).

61. See, e.g., MARIN AGRIC. LAND TR., <http://www.malt.org> (last visited Apr. 4, 2011).

62. See, e.g., CAL. INST. FOR RURAL STUD., <http://www.cirsinc.org> (last visited Apr. 13, 2011).

63. See, e.g., AG INNOVATIONS NETWORK, <http://aginnovations.org> (last visited Apr. 13, 2011); ROOTS OF CHANGE, <http://rootsofchange.org> (last visited Apr. 13, 2011).

64. See, e.g., *About Us*, VILLAGE HARVEST, <http://www.villageharvest.org/about> (last visited Apr. 13, 2011).

65. See, e.g., PEOPLE'S GROCERY, <http://www.peoplesgrocery.org> (last visited Apr. 13, 2011).

66. See, e.g., CAL. FARMLINK, <http://californiafarmlink.org> (last visited Apr. 13, 2011).

67. See, e.g., SUSTAINABLE COMMUNITY GARDENS, <http://www.sustainablecommunitygardens.org> (last visited Apr. 13, 2011).

68. See, e.g., WILD FARM ALLIANCE, <http://www.wildfarmalliance.org> (last visited Apr. 13, 2011).

69. See, e.g., SUSTAINABLE AGRIC. EDUC., <http://www.sagecenter.org/> (last visited Apr. 13, 2011).

70. See, e.g., FARMER-VETERAN COALITION, <http://www.farmvetco.org> (last visited Apr. 4, 2011).

71. See, e.g., AGRIC. & LAND-BASED TRAINING ASS'N, <http://www.albafarmers.org> (last visited Apr. 4, 2011).

## 2. Projects

The clinic's projects for these clients can be broken down into three principal areas:

*Land.* The first category involved real property matters. A number of clients own or lease land, and use it for educational and production activities. Clinic projects included: development of a lease and set of operating policies for an agricultural education organization that leases land to its students; revision of a license agreement and creation of operating policies for a sponsor of a multi-user agricultural park; development of model community-garden lease and participant agreements for use as part of a community garden "toolkit"; assistance with a land purchase and entry into a conservation easement; preparation of lease and easement summaries for use as management references and board-orientation materials; and development of a facility-use agreement for an agricultural-education nonprofit that rents a farmhouse and neighboring barn to third parties for weddings, retreats, and other events.

*Programming.* The second category involved matters relating to organizational programming. Projects included: advice and documents regarding a community produce-gleaning program; advice and documents for a local food-branding program; assistance with transfer and fiscal sponsorship of programs focused on sustainable food distribution and nutritional education for elementary students; development of applications, liability releases, and policies for program participants and volunteers; and revision of contracts used by a food bank with satellite food-distribution sites.

*Direct Marketing.* The third category involved direct marketing activities.<sup>72</sup> The clinic assisted a sponsor of farmers' markets with a complete revision of its market rules and regulations, and with the development of a template site agreement for use with municipali-

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72. Direct marketing means transactions directly between farmers and consumers. USDA REPORT describes two basic types of local food systems where: transactions are conducted directly between farmers and consumers (direct-to-consumer) and direct sales by farmers to restaurants, retail stores and institutions such as government entities, hospitals and schools (direct-to-retail/foodservice). Venues for direct-to-consumer marketing of local foods include farmers' markets, community supported agriculture (CSAs), farm stands/onfarm sales, and "pick your own" operations.

USDA REPORT, *supra* note 9, at 4 - 5. See also FLAG REPORT, *supra* note 17, at 1 - 4 (noting that "direct marketing [refers] to transactions through which a [farmer] sells crops directly to consumers . . . in a manner that is intended to lower the cost and increase the quality of food to such consumers while providing increased financial return to the [farmer]"); HAMILTON, *supra* note 32; Coit, *supra* note 24, at 56 - 64.

ties, shopping center operators, and other owners of market sites. The clinic also developed simple documents for community-supported agriculture programs, advised about programs designed to help small farmers get access to institutional buyers, and, in conjunction with outside pro bono counsel, advised a client about trademark considerations associated with one of its programs.<sup>73</sup>

### *C. O&T Experience*

The clinic's initial experience with food system clients was positive. The engagements yielded relevant and learning-rich experiences for the students, practical value for the clients, and ideas and inspiration for the instructors. This was true notwithstanding the limited nature of the clinic's service offering and the concentration on such a narrow segment of the sector. At the same time, the initial experience highlighted several challenges of working in the area.

#### 1. Benefits

##### a. Subject Matter Exposures

O&T is targeted at students interested in core commercial and corporate work. The food system projects provided exposure to relevant substantive subject matters. Assignments involving land access and program operations, for example, enabled students to revisit the first year curriculum—property, contracts, and torts—in real-world settings. In one case, a team preparing model documents for use by sponsors of community gardens created a lease agreement between the sponsor and the landowner, a participation agreement and liability waiver between the sponsor and individual

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73. The clinic also executed projects for these clients that were not specific to food system organizations. They included provision of corporate governance advice, often in the form of a "governance review." The work involved study of an organization's existing governance documents, financial statements, Form 990 and website or other disclosure, discussions with the executive director, preparation of a substantial deliverable, and an in-person presentation to the organization's board of directors. These projects are designed to acquaint students with core governance principles and documents and to help prepare students for service on nonprofit boards or other pro bono or other volunteer service once in practice. Other non-sector-specific projects included development of independent contractor and trademark license agreements, and memorandums of understanding for collaborations with other nonprofits.

gardeners, a set of garden rules and regulations, and orientation materials for new gardeners. The students worked with property law, considered potential tort exposures and ways to manage them, drafted multiple contracts, and prepared explanatory materials for lay users. More generally, most projects provided exposure to contract drafting, and the engagements with clients operating land-based programs yielded opportunities to work with real property issues not generally found in clinic engagements with non-sector clients.

b. Core Skill Development

The projects exposed students to core skill demands. Document preparation projects involved fundamental tasks of drafting; understanding the underlying business facts; studying relevant legal, operating, and practical considerations; evaluating precedent and model documents; and creating crisp and context-sensitive work-products. The team that prepared farmers' market documents gathered numerous precedents from markets in California and elsewhere, reviewed site leases and permits, studied relevant provisions of the California Food and Agriculture Code and related regulations, read various secondary materials from legal and non-legal sources, visited several markets, and worked closely with the clients to both capture market operations accurately and create a document with appropriate content, look, and feel. Teams preparing liability releases gathered models, considered potential exposures, obtained client input about experiences and concerns, studied applicable caselaw relating to enforceability, and created comprehensive documents that, in accordance with client request, fit on one page with room for the client's logo. Both of these projects provided practical experiences in creating documents that met client needs.

c. Exposure to Innovative Programs

O&T had the good fortune to work on assignments that involved both established programs and emerging models in the sector. Students not only created contractual documents for food banks and farmers' markets, but also for a beginning-farmer program, branding and distribution programs for small farmers and, as noted below, an urban-edge agricultural project. The clinic targeted these types of emerging model projects because they are demanding and creative in terms of both substance (analysis and structuring) and drafting. They also provide students with exposure to thought

leaders and with the fun that comes with supporting inspired and inspiring individuals and organizations.

#### d. Big Picture Projects and Little Picture Execution

A striking and heartening feature of the food system engagements was the regular opportunity to work on larger, more unstructured projects as well as more conventional and discrete assignments. Clients were open to the clinic shaping the project and work-product in ways that met client needs but also served skill-building objectives. Three examples are illustrative.

*Agricultural Park.* A team worked with the managers of a relatively new agricultural park where multiple entities maintain small, adjoining farms. Activities at the site include educational and volunteer events. The client asked the clinic to review the form of license agreement between the park manager and each farmer and to assist in developing tools for park operations, such as policies relating to shared irrigation system use, security, and dispute resolution. The team reviewed relevant existing documents and toured the site with the park manager, and reviewed materials prior clinic students had prepared for a nonprofit that operates an education program in which beginning farmers operate on adjoining parcels. The team prepared a revised license agreement, a one-page plain-English summary of the agreement for review by farmers, a policy document setting out operating rules for the park, a governance protocol for use by the park manager and various stakeholder committees, a form of liability release for signature by park visitors, and a brief summary of the underlying lease for the land.

*Product Branding.* A team reviewed a local food branding program in which suppliers and retailers carrying the products could use a common trademark and marketing materials, and be identified in online and hard-copy consumer guides. The students studied the program, talked with its manager, compared existing practice with other established models, and identified relevant legal, communications, and operational considerations. They then translated their conclusions into a set of practical recommendations, determined the format for communicating those recommendations, developed a “document architecture” that would operationalize the advice, and prepared the documents specified in their blueprint. The work-products ultimately included an advice piece addressing contractual and disclosure considerations, two website click-through agreements, text for the guides, and a high-level website design



schematic. The team also drafted a transmittal note and walked the client through the work in face-to-face and phone conversations.

*Gleaning.* Teams in two quarters worked with an organization that manages a community gleaning program. The program involves volunteers picking fruit from private homeowners' trees, with the fruit then transported to a local food bank or other agency for distribution. The teams interacted with the client on multiple occasions to gather facts about program operations and client administrative capacity, and led somewhat raucous class discussions about tort exposure and potential solutions. The work-product included not only conventional documents, such as a volunteer release, but also a process map that identified key steps in the canvassing, picking, and transportation processes, and potential risk-mitigation actions to be built into program operations.

Projects of this nature required planning, close business study, and contextual thinking. They involved distillation and presentation of business data in creative and practical ways. They also required delivery of a substantial amount of information, a reality that challenges the students to develop a comprehensive but comprehensible presentation and assemble a professional deliverable containing multiple, integrated, internally-consistent documents, and a task particularly relevant to students destined for a document-heavy corporate practice.<sup>74</sup> These projects also often triggered a discussion about the ethical aspects of a lawyer giving "business advice," and about the (often surprising to students) level of interaction and joint problem-solving needed with a client in order to produce the work-product. Finally, availability of such "big" projects facilitated the project assignment process and helped the clinic provide a broader range of experiences for the students.

#### e. Subject Matter Accessibility

The instructors were somewhat daunted by the prospect of encountering "agricultural law." The clinic, however, was able to secure projects of relevant content and difficulty notwithstanding the clinic's narrow scope of services and absence of expertise in core agricultural law. This is due largely to the fact that O&T repre-

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74. Generating such a product with a partner is a useful exercise and one that helps the instructors carry out Karl Okamoto's admonition that students should have exposure to the "production" side of practice. See Karl S. Okamoto, *Learning and Learning-to-Learn by Doing: Simulating Corporate Practice in Law School*, 45 J. LEGAL EDUC. 498, 504 (1995).

sented only nonprofit organizations and not participants in production agriculture. The clinic, with proper scope definition, did take on projects that involved discrete aspects of agricultural law; preparation of gleaning program documents, for example, required research of federal and state food donor immunity statutes. At the same, even with a tightly-defined scope, the instructors were acutely aware of expertise limitations and their impact on the value O&T could provide to its clients.

f. Resources

The projects often involved activities for which there is literature and precedent documents but not an extensive or highly “lawyered” collection of contracts and other materials for the practitioner. This meant that students had resources to use but room (and need) to create original materials. The students benefited from Hamilton’s book about direct marketing,<sup>75</sup> publications by Farmers’ Legal Action Group, Inc.,<sup>76</sup> and direct-marketing and other publications from the USDA and the University of California Division of Agriculture and Natural Resources.<sup>77</sup> The students did not, however, find a definitive set of form documents for the types of programs conducted by O&T’s clients. Instead, they found examples on websites—there are a considerable number of CSA, farmers’ market rules, volunteer release, and community garden documents on the internet—and useful secondary sources. From a teaching (if not risk management) point of view, this was not a bad state of affairs. The students and instructors had raw materials but had to work them into a final product reflecting program specifics, client concerns and objectives, local law, and clinic style.

g. Getting Off Campus and into the Community

The projects provided multiple opportunities for students to get out of the law school. Clients with farming operations routinely and generously invited their teams to tour the farm. Students visited farmers’ markets operated by a client, and that client on two occasions hosted the entire class for a market tour and meal. Students presented governance recommendations to boards of direc-

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75. See HAMILTON, *supra* note 32.

76. *Publications*, FARMERS LEGAL ACTION GROUP, INC, <http://www.flaginc.org/topics/pubs/index.php> (last visited May 26, 2011).

77. See *supra* note 32.

tors, with one such meeting taking place in a barn. Several organizations sent teams home with a CSA box or came to meetings with freshly-picked produce; on one memorable occasion, a client arrived at the law school with four dozen farm-fresh eggs for the team. These experiences were not only fun—which is a factor not to be discounted given the often-tedious nature of corporate work—but, more importantly, provided essential (often physical) context. Students could see how the practical realities of operations shape advice development. They also enabled students to see the relevance of their products in real life. Finally, they provided opportunities for students to experience one of the joys of lawyering, the regular occasions to learn about a small corner of the world and then, almost every day, to see that corner with greater awareness and understanding.<sup>78</sup>

#### h. Value for Clients

The most obvious benefit for the clients from these engagements, of course, was the receipt of free legal work. Clients also benefited in other ways. For example, engagement with multiple clients in the sector generated useful information sharing and tool development. O&T had a number of clients engaging in similar educational and food distribution activities in different locations. The clinic, like law firms routinely do, could develop documents for one client and then adapt them for another,<sup>79</sup> and on occasion alert a client to an interesting program operated by another organization. These circumstances may enable the clinic over time to refine a model document for potential broader access across, and contribution to the literature of, the sector. At a narrower level, the engagements necessarily involve student exposure to the issues of concern to the client. Organizations whose mission is to reconnect consumers to the sources of their food, for example, seem to value the opportunity to connect with individuals who are part of a university and who may well become influential members of their communities.

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78. Former O&T students periodically report that they visited a farmers' market operated by a client, saw familiar branding elements in a store, or helped prepare a meal featuring produce from a friend's CSA box—and that they enjoyed understanding the backstory.

79. These situations provided excellent opportunities for two or more student teams to evaluate each other's drafts and work together to generate a solid document, or for students to improve documents developed by the clinic in prior terms.

i. Exposure to New Issues, Possibilities and Literature

The initial engagements with the more distant food system clients confirmed that engagements could succeed notwithstanding physical distance. That led the instructors to explore more deeply the literature about access to legal services in rural areas,<sup>80</sup> and to rural issues generally.<sup>81</sup> That learning, the examples set by other clinics in working in off-campus locations or across wider areas,<sup>82</sup> the broadening value associated with exposing students to these communities and issues, and the call for greater involvement of law schools and urban lawyers in providing legal resources to rural residents,<sup>83</sup> led to an increased focus on serving both food- and non-food system clients located outside of the immediate Bay Area.<sup>84</sup>

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80. See CIVIL JUSTICE, *supra* note 48; see also ABA STANDING COMM., *supra* note 48.

81. The literature about rural issues included the work of Lisa R. Pruitt. See, e.g., Lisa R. Pruitt, *The Forgotten Fifth: Rural Youth and Substance Abuse*, 20 STAN. L. & POL'Y REV. 359 (2009); Lisa R. Pruitt, *Place Matters: Domestic Violence and Rural Difference*, 23 WIS. J.L. GENDER & SOC'Y 347 (2008); Lisa R. Pruitt, *Missing the Mark: Welfare Reform and Rural Poverty*, 10 J. GENDER RACE & JUST. 439 (2007); Lisa R. Pruitt, *Rural Rhetoric*, 39 CONN. L. REV. 159 (2006). See also Katherine Porter, *Going Broke the Hard Way: The Economics of Rural Failure*, 2005 WIS. L. REV. 969 (2005).

82. For example, students in environmental clinics and in clinics that represent incarcerated individuals often travel considerable distances to meet with their clients. Other clinics describe themselves as working with organizations across a state. For example, the website of the Michigan State University College of Law Small Business and Nonprofit Clinic states that the clinic "serves clients [not only in the local area] but throughout Michigan." *Welcome to the MSU College of Law Small Business & Nonprofit Clinic*, LAW.MSU.EDU, <http://www.law.msu.edu/clinics/sbnp/general-info.html> (last visited Apr. 20, 2011). In California, One Justice, a nonprofit organization, operates a "Justice Bus" program where urban law students travel by bus to rural California to provide legal assistance to rural clients. *Justice Bus Service Learning Trips*, ONE JUST., <http://one-justice.org/tem-plates/System/details.asp?id=53135&PID=834942> (last visited Apr. 20, 2011).

83. In its report on access to justice in rural communities, the California Commission on Civil Justice called on urban law schools to collaborate with rural providers in expanding access to legal services in rural communities. See CIVIL JUSTICE, *supra* note 48, at 15, 47.

84. For example, the clinic sought to develop client relationships in two smaller cities outside of the immediate Bay Area. This approach helped build relationships with community leaders, generate engagements through referrals and enable the clinic to offer students projects for both urban and non-urban clients.

## 2. Challenges

### a. Narrow Scope of Services

O&T's scope of services, as noted, is narrow. Clients often asked the clinic for advice about matters outside the clinic's scope. Urban production and distribution operations, for example, present zoning and permitting questions. Nonprofit engagement in production and sale of products, or in working with commercial operators to develop regional processing and distribution infrastructure, may have complex tax implications. Seemingly every client was interested in the employment and tax rules that applied to interns and apprentices. The clinic would encounter issues arising in its projects where it could not responsibly provide advice or provide as full of a review as would be ideal. At a broader level, the clinic, through its client and project selection screens, did not encounter the complex world of federal farm programs, agricultural labor, environmental compliance, lending, energy, tax, food safety, and farm succession planning faced by production farmers, or the federal programs relating to rural economic development. A clinic seeking to represent farmers and organizations participating in these programs would need to balance felt client needs with competence and risk management considerations in designing its service offering.<sup>85</sup> At the same time, a clinic with the expertise and risk tolerance to practice in a variety of areas no doubt would generate a steady stream of interesting assignments.

### b. Market Receptivity

O&T's clients generally welcomed the clinic's offer of pro bono legal assistance. It seems likely that clinics with expertise in community development and affordable housing could generate clients working in rural development and farmworker support. A clinic seeking to represent production farmers and other for-profit participants in the food system, however, may encounter skepticism about the value provided by lawyers, much less law students. The

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85. A recent survey of the legal needs of farmers found that farmers identified "federal programs"—defined to include "the vast array of federal subsidies and attendant rules to support agricultural production and improve environmental quality"—as the most important legal issue relating to their operations. A. Bryan Endres et al., *The Legal Needs of Farmers: An Analysis of the Family Farm Legal Needs Survey*, 71 MONT. L. REV. 135, 146 (2010).

authors of a recent article describing a survey of Illinois farmers regarding their legal needs noted that:

Respondents demonstrated a clear pathology toward attorneys in both the focus group discussions and the survey group write-in responses. Respondents also noted that cost of hiring an attorney and expressed skepticism that professional legal services would be helpful in resolving their particular situation.<sup>86</sup>

The authors went on to note that farmers, in addition to their dubiousness about the value of working with lawyers, often rely on sources other than attorneys for data and guidance about legal issues.<sup>87</sup>

### c. Physical Distance

Many but not all of O&T's food-system clients were located more than ninety minutes away from campus. The clinic conducted most of its business with clients through e-mail exchanges and telephone conversations, and, as a result, the distance did not create real barriers to project execution. That said, it did impose costs. Students generally had only one face-to-face meeting with a client and rarely, if ever, could attend client events such as open houses or harvest festivals. There was limited ability to meet with a client on short notice, to stand with them at a whiteboard working through an issue, or to walk them through a document. The impact of distance

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86. *Id.* at 148–49. The authors noted that the “respondents indicated a far greater willingness to attend an educational program than to seek out legal services.” *Id.* at 147.

87. The authors of the needs survey note that farmers may rely “on other sources of information, such as farm or agricultural organizations, newsletters or trade publications, other farmers and neighbors, university extension programs, and state agencies rather than an attorney for information regarding important legal issues.” *Id.* at 148. One possible client development approach may be for clinics is to establish relationships with nonprofits and universities that operate training, incubator and technical support programs for beginning farmers, and to take advantage of the growing interest and investment in those programs. Students in clinics that represent entrepreneurs and small businesses could, for example, provide educational briefings and assist individuals with entity selection and business launch. Students in clinics that work with nonprofits could develop model-entity formation and lease documents, help produce educational documents, and draft program participation agreements. Clinics could develop forms and checklists and make them available to private practitioners. Collaboration with university and governmental programs may provide a useful platform for client development, given their familiarity and credibility in the sector. Such relationships may also help to anticipate and diminish resistance from lawyers in smaller communities to the presence of pro bono or low-cost competitors.

on the frequency of live performance by a students is a weakness in the approach. Experiential programs concerned about travel, or for whom live performance is a focus area in the curriculum, may wish to explore and concentrate on organizations active in urban and urban-edge agriculture, and on food security and education programs in communities close to campus.<sup>88</sup>

d. Academic Calendar

O&T, like most clinics, operates on the academic calendar. The clinic generally does not take on new clients and/or matters for existing clients in the summer. For most clients, that fact did not present an issue. Food banks, land trusts, and advocacy organizations operate through the year, and bylaw revisions and template-contract development projects are not seasonal in nature. Indeed, for clients running active farming and market operations, it presumably is best not to have law students sending e-mails and attachments during the summer. The cost, however, is that students (at least while enrolled in the clinic) are not able to visit these organizations at the height of the season, a challenge presumably exacerbated in regions with shorter growing seasons than prevalent in California.

e. Potential Conflicts

O&T is part of the larger clinical program at Stanford. The program includes an environmental law clinic. That clinic represents organizations active in California water issues. Agricultural water use is of course an intensely debated issue in California. Given O&T's client base, the two clinics did not face any conflicts of interest or even awkwardness arising from their respective engagements, but the concern presumably would become much more acute for a clinic that represented production farmers. A similar situation could arise if another clinic in the program represented farmworkers on employment or worker safety matters. This is not all bad – identifying and resolving potential and actual conflicts is part of legal practice—but it does add to the incremental risk of operating a broad-ranging clinical program. On the other hand, there may be opportunities to collaborate with the environmental clinic on pro-

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88. On the other hand, the distance meant that students had regular opportunities to participate in conference calls (a new and sometimes uncomfortable experience for some) and draft e-mails—highly relevant and practical experiences for students preparing for legal practice.

jects relating to conservation, land preservation, alternative energy, water use, or other areas, and to work with immigration, community law, family law, and other clinics on outreach to rural communities.

### III. CONCLUSION

The food system is characterized by structural features and other attributes that make it unusually attractive as a source of projects for experiential learning in non-litigation settings. Its wide variety of activities, actors, and legal issues means programs of diverse nature, including those like O&T with narrow scope, corporate focus, and suburban location, can find projects that enable engagement with relevant subject matters and facilitate relevant skill development. The familiarity and topicality of food generates student interest and engagement, and its importance, on multiple levels, suggests the appropriateness of talent and pro bono resource deployment to the sector. There are real challenges to representation of such clients, including physical distance and subject matter competence, but the initial experience of O&T suggests that getting into the field is meaningfully and memorably advanced by getting into the field.



