



PRO/CON

Is Law School a Reasonable Choice for New Graduates?

The Rise of 'Dr. No'

By Steven Lichtman

The dilemma of college pre-law advising in an 'unbalanced market'



When I first took on pre-law advising responsibilities a decade ago my duties were fairly straightforward: Counsel students about course selection and LSAT preparation. Help students identify law schools that would be a good fit for them. Offer comments on drafts of application essays.

Every now and then I had to suggest to certain students that perhaps law school was not an optimal path. Some may have had an unrealistic view of what law practice would be like. (I lost count of how many times I told students that only a handful of lawyers actually practice First Amendment law.) Others may have lacked the discipline for the rigors of legal education and law practice.

Today, however, what was once an infrequent admonition to steer clear of law school is now my default position. I find myself having to tell students who are unquestionably capable of succeeding in law school that they should probably not go.

I have become a James Bond villain. I am Dr. No.



Why?

Last June, the Northeast Association of Pre-Law Advisors (NAPLA) held its annual conference in Boston. For me and my colleagues the current economic downturn and its impact on the legal job market was an ominous concern. The NAPLA conference promised a plenary session, "Is the Law School Bubble Bursting?" which we assumed would provide details about how the law schools and the legal profession were reapproaching the situation.

What we heard — and, crucially, what we did *not* hear — was bracing.

The core of the problem was that we were presented with two incongruent sets of data. The first set explained the legal profession's current hiring slump. Going in, we suspected that today's wheezing economy was only partially responsible; we also sensed that enduring structural changes have been made in legal hiring practices.

The conference confirmed that impression. Entry-level jobs that existed in the legal profession 10 years ago are not there now, and they are not coming back.

What triggered their disappearance? For one thing, in the recent past law firms threw squadrons of junior lawyers at discovery and due diligence because there was simply no other way to complete the work. Today the need for volume staffing has been obviated by technological advances that streamline discovery and by outsourcing to legal process companies in foreign nations.

Additionally, clients are imposing new demands on law firms, and these new demands constrict opportunities for junior lawyers. Many firms are now directed by clients to refrain from assigning recent law school graduates to their matters unless a recent graduate can bring added value to the table, such as engineering experience or several years in consulting. As a consequence, law firms' lateral hires

are up but entry-level hires are down. Importantly, this is not likely to change in either the short term or the long term. Yes, the poor economic climate is part of the story. But the 21st century legal job slump is not just a byproduct of the recession. Rather, it is a paradigm shift.

This first set of data showed us that the demand for new lawyers is plummeting. Unfortunately, the second set of data showed us that the supply of new lawyers is skyrocketing.

According to the National Association for Law Placement, in 1990 approximately 33,000 students graduated from 175 American Bar Association-accredited law schools. In 2010 approximately 43,000 students graduated from 200 ABA-accredited law schools.

The last two decades thus saw a 30 percent increase in the number of new lawyers and a 15 percent increase in the number of law schools. Yet by 2010 the legal profession was well along a path of permanently decreasing employment opportunities for new lawyers.

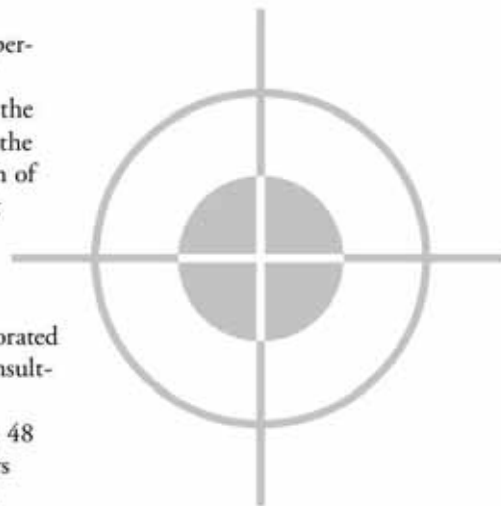
The grim outlook presented at the NAPLA conference has been corroborated elsewhere. A recent report by the consulting company Economic Modeling Specialists Inc. showed that in 2009, 48 states had more new bar exam passers than job openings for lawyers. On a national level the firm found that there were more than two new bar exam passers for each entry-level job opening.

Obviously this discontinuity is a troubling dynamic. So what are the legal profession and the law schools doing to address it?

According to the panelists at the NAPLA plenary session, the answer is ... not much.

The panel consisted of law school officials and a representative from the ABA. They were asked directly how law schools and

Entry-level jobs that existed in the legal profession 10 years ago are not there now, and they are not coming back.





On a national level [a study found] there were more than two new bar exam passers for each entry-level job opening.

law firms were working together to recalibrate the system of supply and demand in legal employment.

No solutions were offered. Instead the panelists proffered a disturbing litany of denial, buck-passing and excuses.

One panelist suggested that the solution is simply to let the market sort itself out. Some law schools will soon be unable to fill their classroom seats because students will wise up to the job market incongruities. Eventually a few law schools will struggle along and ultimately shut down.

Even if one has an abiding faith in self-correcting markets, this is a profoundly unhelpful response. The timetable for law school failure is marked in decades, not years. As a handful of law schools inch at a glacier's pace toward unsustainability, the glut of new law school graduates will continue. All the while the disastrous imbalance in the market will keep on producing real-world casualties: new law

school graduates, many carrying significant loan debt, unable to find jobs.

Another panelist, rejecting a call for the ABA to stop handing out accreditations, pointed out that such a move would be an open-and-shut violation of antitrust law. This is absolutely correct. It is also a crutch.

When the institutional actors responsible for the imbalance in the legal job market throw up their hands and say that nothing can be done, it is a gross dereliction of their duty to their students and to basic ideas of fairness. They need to work the problem and not be worked by it.

Most disturbingly, one panelist sought to shift the burden to law students themselves. "New law school graduates need to understand that they cannot count on the safety of going to a firm and just having work handed to them," he admonished. "They need to be entrepreneurs; they need to hustle up work for themselves."



This is utter nonsense; it is disingenuousness on a breathtaking level.

Placing the onus on new law school graduates to be entrepreneurs is only sensible if those new law school graduates are being taught entrepreneurial skills during their law school tenures. But law schools do not teach those entrepreneurial skills. They are stuck in the tradition of teaching black-letter case book law like civil procedure and torts; they don't teach courses in managing business relationships.

Even worse, this tradition serves no practical purpose. It would be one thing if these courses in black-letter law prepared law students for legal practice. But they do not. Invariably, within weeks of arriving at their first job, young lawyers are pulled aside by a senior colleague and advised that very little of the material they learned in law school is really relevant to their work.

We commit a form of professional malpractice if we tell our students that it is fine to go to law school straight out of college.



If the ABA and the law schools want to insist that new law graduates be entrepreneurial in finding work and if they intend for this to be a workable solution instead of a vapid disclaimer of their own responsibility, then let us see a paradigm shift in legal education that parallels the paradigm shift in legal hiring. Let us see a few major law schools — not newly accredited institutions and not bottom-tier schools — abandon the traditional first-year curriculum and replace those courses with courses that transmit the skill sets that entrepreneurial law students will need.

In so doing the law schools would follow rubrics long established in business schools and graduate programs in public administration. Master-of-business-administration programs typically offer core courses in strategic career planning and management communications. Electives cover techniques in developing customer relationships and decision-making. Master-of-public-administration curricula offer similar sets of practical knowledge with courses in organizational behavior and budgeting.

There is no reason that juris doctor programs cannot adopt a similar approach. Law schools can easily scale back their dependency on jurisprudentialist models of legal education in favor of inculcating the entrepreneurial skill sets that the profession now seems to require of new law school graduates.

Until that shift occurs, however, my fellow pre-law advisers and I will be in the uncomfortable position of counseling students whose hearts are set on law school that they need to postpone that dream. The crisis in pre-law advising has now come to this: We commit a form of professional malpractice if we tell our students that it is fine to go to law school straight out of college.

Faced with an imbalanced job market and the intransigent refusals of the law schools and the legal profession to take affirmative steps to correct this imbalance, I am compelled to steer my students away from law school. I am forced to tell them that they need to spend several years working, developing practical experience, before they even think of applying to law school.

I have to embrace the role of Dr. No. ♦



Steven Lichtman

Steven Lichtman is an associate professor of political science and pre-law adviser at Shippensburg University of Pennsylvania. He holds a doctorate in American politics and public law from Brandeis

University and a law degree from New York University.

A Response to 'Dr. No'

By Ken Gormley

The importance of saying 'yes' to legal education in America



Duquesne University School of Law, where I am privileged to serve as the 11th dean, is currently celebrating its 100th anniversary. We kicked off that celebration last February with a keynote address by U.S. Attorney General Eric Holder, who urged students to build upon the law school's rich tradition by dedicating a portion of their legal careers to public service. The attorney general told our law students: "Today I call on each of you to choose action, to choose compassion and to choose a future of service — the service of justice." Gov. Tom Corbett, our centennial commencement speaker in June, gave an equally eloquent plea to young graduates, importuning them: "The reason to become a lawyer is not to accumulate money or power or prestige. It's to seek out justice. The law is here to serve humanity, not the other way around." In September, U.S. Supreme Court Justice Antonin Scalia delivered the keynote centennial address to a crowd of nearly 1,300 law students, alumni, law practitioners and judges. Scalia told student leaders in an informal session before the program that they should remember to use their talents and law degrees to become leaders in the profession and community — just as great lawyers and jurists have done since the founding of the nation.

In the midst of these inspiring events during Duquesne law school's centennial year, *The Pennsylvania Lawyer* sent me a copy of "The Rise of 'Dr. No'" by Dr. Steven Lichtman of Shippensburg University and asked if I would be interested in composing a reply.

After reading this frontal assault on legal education by a professor who had earned a J.D. but eschewed a career in law in favor of an alternate career as a political science professor, I scribbled down the first words that leaped into my mind: "Dr. No should find a new advising gig!"

Don't misunderstand my reaction. I have the utmost respect for political scientists. My brother is a successful political scientist at Georgetown. Early in my own career I taught in the political science department at the University of Pittsburgh and immensely enjoyed the experience of teaching law to undergraduates. I have no quarrel with political scientists as a class of people. It is with Lichtman that I have a bone to pick.

Students are not well served by sitting down with a pre-law adviser who has already reached a sweeping conclusion that legal education is headed for an apocalypse and is unworthy of their consideration — any more than pre-med students are well served by an adviser who has decided that the medical profession is being run into the ditch by greedy health care providers and is therefore undeserving of enrolling our nation's best and brightest.

Is Lichtman suggesting that all of his top students should forego law school in order to obtain Ph.Ds. in political science?

Dr. No must certainly understand that each student's background, goals, dreams, intellectual capabilities and financial resources must be assessed carefully, on an individual basis, in advising that student whether a career in law is the best choice — and if not, what superior options might be available? These are challenging economic times, admittedly. Yet tough economic eras are nothing new. If previous generations had abandoned the practice of law because there was no guarantee of fabulously paying jobs when they walked out the door with their diplomas, our society would have been deprived of many of the greatest lawyers (and many of the most successful practitioners) in the history of this nation.

Duquesne law school has lived through two world wars, a depression, numerous recessions and a host of national crises. Yet, in the throes of these challenges, our



graduates have helped to run major law firms, corporations, government offices and nonprofit entities that have served as the engine of this region and this commonwealth. Our graduates have represented hundreds of thousands of clients, ensuring that our system of justice works properly. That is a shining example of professional success.

Rewarding careers can be built many different ways, especially by those who are creative and entrepreneurial. In the 30 years since I graduated from law school I have witnessed an incredible retooling of opportunities for those who have attained law degrees. More graduates than ever work in government, contribute to our system of justice as judicial clerks, perform duties as editors of influential legal publications, run small businesses and real estate companies, serve as CEOs of corporations and hold elected office.

Some of our law graduates even teach. I found it noteworthy that, according to Lichtman's curriculum vitae, he earned a law degree from New York University and worked briefly as an associate at several small firms before pursuing a Ph.D. with an emphasis on constitutional law. Did

The next Supreme Court justice or leader of the Pennsylvania Bar Association may be at Shippensburg University, weighing career options. It would be a shame if Dr. No scared him or her away.

his law degree further his career and prove to be a wise investment? It is hard to imagine that he would have secured a post in academia teaching constitutional subjects — a coveted position — without the foundation of his legal training. Like those who learn to play the piano over a period of years, a successful virtuoso often forgets that playing a concerto would not be possible if he or she had not first learned to play the notes.

Moreover, it is unfair to suggest that law school is a bad investment if all students do not graduate with guaranteed six-figure jobs in large firms. Many of the best trial lawyers and practitioners in this commonwealth have honed their skills in



It is unfair to suggest that law school is a bad investment if all students do not graduate with guaranteed six-figure jobs in large firms.

TRADEMARK

Copyright & Patent Searches

*"Experienced Washington office
for attorneys worldwide"*

FEDERAL SERVICES & RESEARCH:

Attorney directed projects at all Federal agencies in Washington, DC, including: USDA, TTB, EPA, Customs, FDA, INS, FCC, ICC, SEC, USPTO, and many others. Face-to-face meetings with Gov't officials, Freedom of Information Act requests, copyright deposits, document legalization @ State Dept. & Embassies, complete trademark, copyright, patent and TTAB files.

COMPREHENSIVE: U.S. Federal, State, Common Law and Design searches, **INTERNATIONAL SEARCHING**

EXPERTS: Our professionals average over 25 years experience each

FAST: Normal 2-day turnaround with 24-hour and 4-hour service available

GOVERNMENT LIAISON SERVICES, INC.
200 N. Glebe Rd., Suite 321
Arlington, VA 22203

Ph: 703-524-8200, Fax: 703-525-8451

Minutes from USPTO & Washington, DC

TOLL FREE: 1-800-642-6564

www.GovernmentLiaison.com
info@GovernmentLiaison.com

small firms, where they have earned modest salaries initially while gaining invaluable experience. Plenty of Duquesne, Penn State Dickinson and Temple graduates have gone on to pull down salaries that dwarf those of Ivy League graduates who hold positions in mega-firms. The greatest success stories in the legal profession relate to those who do what they love and work industriously at it.

Likewise I believe that Lichtman is off the mark when he contends that law schools are oblivious to changes taking place in the legal profession and that they do nothing but teach antiquated "black-letter case book law." At every deans' conference I have attended for the past three years a central theme has been addressing the seismic shifts that continue to reconfigure the landscape of the legal profession.

At Duquesne law school we have begun aggressively introducing new skills courses to retool the educational experience. We have added a skills component to our graduation requirement, along with cutting-edge courses in e-discovery and international litigation. We have pumped new energy and resources into our clinical program so that students have increased opportunities to gain hands-on experience in family law, unemployment compensation cases, community development projects and civil rights litigation. (Two of our students recently argued prisoners' civil rights cases in the 3rd U.S. Circuit Court of Appeals, an impressive credential for any graduating law student.)

Lichtman's proposal that law schools should "abandon the traditional first-year curriculum" is even more startling. In fact it would produce a disaster. Learning to read and analyze cases is the *most important* skill that lawyers must acquire in order to succeed and excel in the real world, regardless of which type of law-related work they pursue. Turning first year into a trade school, like a plumber's workshop filled with pipe-wrenches and toolboxes, without the academic/analyti-

cal component would send legal education back to the Dark Ages. Lawyers are sought-after professionals precisely because they undergo the rigorous intellectual process of learning to analyze cases and solve complex legal problems. Skills training is possible only *after* a student possesses the analytical training necessary to use those skills in a professional setting. There is too much at stake, including the life, liberty and property of future clients, to throw core courses overboard in favor of a plumber's manual.

The better solution is to inject more skills training into the upper-level curriculum, which is exactly what most law schools in Pennsylvania and elsewhere are doing. Indeed, my administration at Duquesne is currently exploring a cutting-edge new "capstone program" during the student's final year of study in which a host of practical skills (including client development, running conflict checks, addressing ethical issues, "rainmaking," law office management, etc.) would be taught by a brigade of practicing attorneys.

Lichtman is correct that obtaining a professional degree requires sacrifice. Yet this has always been the case. The best reason for a young man or young woman to attend law school is no different than it was a century ago: to represent, in an ethical and skillful fashion, fellow citizens to ensure that they receive fair and just treatment in our legal system.

Duquesne law school graduates currently hold positions of trust in myriad institutions that make our society tick. They include state Supreme Court justices, federal judges, leaders of the Pennsylvania Legislature and other prominent figures. They also include the president of the Pittsburgh Steelers, the president of Consol Energy and the chief financial officer of U.S. Steel.

Fortunately these individuals did not listen to the Dr. Nos of their eras. They did not abandon their desire to serve others

As long as law graduates can use their talents to serve others and bring fairness to our democratic system, obtaining a law degree will always be a worthwhile endeavor for those who can devise a means to accomplish it.



via the legal profession in favor of some elusive pot of gold. Graduates of Pennsylvania's law schools — and lawyers practicing in this state — continue to act as leaders with respect to virtually every aspect of public, civic and business life in this commonwealth, as has been true since the founding of our nation.

One of the most tragic aspects of Lichtman's decision to don the mask of Dr. No and to steer his pre-law advisees away from their dreams of entering the legal profession — based upon a two-day conference for pre-law advisers in Boston — is that Shippensburg University is a state-funded institution. It draws upon citizens' tax dollars to give young men and young women educational opportunities that otherwise might not be available.

Numerous Shippensburg alums have made important contributions to society by pursuing legal education after college. These include state Sen. Richard L. Alloway II of Franklin County (who earned a degree in government from Shippensburg and graduated in 2002 from Widener University School of Law), U.S. Rep. Todd R. Platts of York County (a 1984 graduate of Shippensburg who holds a law degree *cum laude* from Pepperdine University School of Law) and many other notable graduates.

A decade ago I was privileged to spend a day with Justice Sandra Day O'Connor when she visited Duquesne law school. O'Connor spoke candidly of her decision to pursue a legal education even though she grew up on a cattle ranch in Arizona, graduated from Stanford Law School at a time when legal jobs were scarce in the aftermath of World War II and faced the

seemingly insurmountable obstacle of joining the legal profession when few women held positions in the mainstream of that profession (the first job she was offered after law school was as a legal secretary). Thankfully O'Connor did not have a pre-law adviser like Dr. No. Or if she did she ignored his advice. If she had heeded the words of the naysayers and those who saw only doom and gloom on the horizon, the nation would have been deprived of the first woman justice on the U.S. Supreme Court.

Times of indecision and overreaction are often times of unexpected opportunity. (Ask any lawyer who graduated as part of the great generation after World War II and went on to build a highly successful legal career.) Good lawyers will always play a pivotal role in moving our nation forward. Indeed, times of national challenge are precisely when citizens need ethical, competent attorneys the most.

Recognizing this need, Duquesne law school has recently increased scholarship funds available to entering law students in order to maximize the chance that those who wish to serve others through the practice of law will not be deterred from doing so due to the current economic challenges.

As long as law graduates can use their talents to serve others and bring fairness to our democratic system, obtaining a law degree will always be a worthwhile endeavor for those who can devise a means to accomplish it.

I have no doubt that Lichtman's views are heartfelt. I am also certain that he wants only the best for his students. Clearly he

has constructed a work/life balance that fits his own dreams and aspirations. I applaud Lichtman. He has found a nice niche for himself, building upon his legal education at NYU nearly two decades ago in order to enjoy the rewards of an academic life in Pennsylvania. He must remember, however, from whence those opportunities came.

If the professor no longer wishes to advise students interested in legal careers, he should feel free to hand my contact information to them before ushering them out the door; I would consider it a privilege to discuss possible opportunities in the legal field with any student who aspires to achieve success in this profession. If history teaches us anything it is that talent rises from unexpected places. The next Supreme Court justice or leader of the Pennsylvania Bar Association may be quietly studying in a dorm room at Shippensburg University, weighing career options. It would be a shame if Dr. No scared him or her away, preventing a student with ambitious goals and an unwavering desire to serve others from contributing his or her talents to the most important profession in our democratic society. ♦



Ken Gormley

Ken Gormley is dean and professor of law at Duquesne University School of Law in Pittsburgh. He is the author of the critically acclaimed book *The Death of American Virtue: Clinton vs. Starr* (Crown 2010), which received a 2011 Silver Gavel Award (Honorable Mention) from the American Bar Association.



'Dr. No' Responds

By Steven Lichtman

Instead of acknowledging the duality of declining entry-level legal jobs and increasing law school graduation rates, officials in the bar and the legal academy seem to be devoting more energy to public relations and blaming the messenger. Gormley's response is typical:

- "Fortunately, these individuals did not listen to the Dr. Nos of their eras."

Those eras are over. Today going to law school, especially straight out of college, is becoming a bad choice because employment opportunities that were available to the alumni Gormley touts are not available to law school graduates of 2012 and beyond.

- "It is unfair to suggest that law school is a bad investment if all students do not graduate with guaranteed six-figure jobs in large firms."

What is truly unfair is Gormley's lack of concern for the throng of law students who seek the jobs that have vanished. Many of them finance their legal education with loans, in reliance on dubious assurances about law school placement rates, only to discover upon graduation that they cannot find work because there are many more new J.D.s. than available jobs. The problem is not that all students don't graduate law school to a six-figure income. The problem is that most students graduate law school with six-figure debt and no job with which to pay it off.



- "[Advice] based upon a two-day conference for pre-law advisers in Boston."

Nothing will infuriate my colleagues more than to hear law schools dismiss our concerns as the Cassandran whining of ill-informed dilettantes. Pre-law advisers have been studying the trends for several years. We are not a flash mob of anti-law-school nihilists. We believe that a career in law is valuable, commendable and desirable. We want to be able to tell our students to go to law school. Right now, however, the imbalance between entry-level law jobs and law school enrollments is so pronounced and the law school debt crisis is so severe that we struggle to do so. We need solutions to these problems.

I am glad that Duquesne is "exploring" a program that will teach the entrepreneurial skills that the profession now demands of new law graduates. Yet it is instructive that Gormley mentioned this program only as an afterthought and instead focused on attacking me and my colleagues. I hope that this is not an indicator of the priorities of contemporary law school officialdom. ♦

The Last Word: A Reply to a Reply to a Reply

By Ken Gormley

As a young lawyer arguing appellate cases, I learned the value of brevity in presenting arguments. Here are several salient points in response to professor Lichtman's surrebuttal.

I did not intend to "attack" the profession of pre-law advisers. Nor do I view them as "a flash mob of anti-law-school nihilists." My quarrel is with a single pre-law adviser who stepped out into a public forum and proclaimed that he advises "students who are unquestionably capable of succeeding in law school that they probably should not go."

Professor Joseph DiSarro, chair of the Department of Political Science at Washington & Jefferson College and one of the most highly respected pre-law advisers in Pennsylvania, recently told me, "Our responsibility is to encourage students and to help them find ways to accomplish their goals. They carry their academic training and degrees with them for the rest of their lives."

DiSarro has been a pre-law adviser for 34 years; he has advised 1,117 students who went on to law school. Some ended up with high-paying private sector jobs; others have earned more modest salaries in public service and other pursuits. Yet the important thing, DiSarro says, is that "each of them is making a contribution. A professional education is an incredible gift. I am proud of each of them."



True, I worry each day about our students' financial plight and how it might impact their career options. I have instituted paid summer internships in public service to help students pay for books and tuition; I have created additional work-study jobs in the law school; I have personally reached out to hundreds of alumni to seek job opportunities for our graduates. Many other leaders of professional schools — business, medicine, etc. — are likewise trying to mitigate the tough financial burdens that the economy is placing on our students.

Ultimately Dr. No fails to answer this fundamental question: If you are advising students who are "unquestionably capable of succeeding in law school" that they should abandon those dreams, what exactly are you advising them to do as an alternative? As mentors to the next generation of society's leaders we must help them to construct viable ways to say "yes" to their goals so they can build fulfilling lives. Isn't that how each of us who is fortunate enough to have a rewarding career managed to succeed? ♦

If you would like to comment on these articles for publication in our next issue, please email us at editor@pabar.org.

