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Chapman Dialogue Series: The Role of Law Schools After the JD

Monday, November 11, 2013

*Douglas Sylvester**

I want to talk about what I think the role of law schools should be after the JD. This presentation is not a formal presentation; it is just to situate some of the things I want to talk about with all of you. So I not only want to leave time for Q&A, I would like to have as much Q&A as we possibly can, including things like, “You are crazy Sylvester, no one would do these sorts of things,” and I am happy to explain to you that, yes, I am nuts.

What I want to talk about today is the crisis we are all feeling with the legal profession and law schools themselves. Then I want to talk a little bit about why I do not think it is a generalized crisis—we all have our own crises, we all have our own individual things. Then I want to use this as one example of a way that we can respond to this crisis, individually, locally, and in a way that makes sense for our school, our students, and our communities. This is just an idea. I think there are a lot more ideas, and again, I am hoping to steal them from you so please do feel free to share throughout the presentation.

Right off the bat we know certain things are true. We know that there is a crisis in legal education—or do we? This phrase itself bothers me. I do not believe there is a crisis in legal education, but I do think law schools and the legal industry are facing a crisis. Law schools are obviously facing, deans especially, an economic crisis because of the drop-off in applications. We are now down another ten percent as of the October applications, so

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it is looking like a tough year to recruit students. There are going to be a lot of difficult choices that schools make, and again, they are individual choices. Some schools are going to choose to go one path, and some will go another, and I think that is fine. The question is the choices you make as you enroll the next set of graduating students.

The crisis is not just a numbers game. We have a crisis in the reputation of lawyers, and I want to talk about that too. When we take polls and surveys about what Americans think of lawyers, we come just slightly ahead of industry salesman and well ahead of former Congressmen. We know that much. The legal profession used to be held in high esteem by the general public. That is not true anymore. Something has changed about the profession, something is different, and I think law schools have a role to play, and a little bit of blame, in how that has occurred. It is not just whether people are going to law school. It is what happens when they get out. It is what our perceptions are of all of us and I think what we hold dear. What can we do now and in the future to change that?

And lastly, there is a job crisis, but that is a national problem. The question is whether it is individually true for one school versus another, because I think it is a different conversation when you focus individually. But overall, there is just no doubt that in this current economy we probably have too many lawyers who are looking for the same kinds of jobs. The question is, can we change the kinds of jobs that people might be looking for? Can we change some aspects of the industry to try to avoid this very clear view that there are too many people graduating for too many jobs? I do not think it is actually as big of a problem as everyone talks about, but I want to at least address it.

Law schools have been guilty of certain things. We (as if we are a single industry!) have certainly been over-enrolling for decades. There is no doubt, as jobs have been rolling out, law schools have increased the size of their classes without much regard for whether the local market can actually sustain that number of people or whether we really have institutions in place to transition people into their practice of law. Obviously, not Chapman or ASU, but every other law school in America is guilty of these things (that is a joke by the way). I think we can do better—or at least the one law school I control can set an example of how to be student-centered in its enrollment and graduation practices.

There was also a quick rise in the cost of tuition at law schools. I have talked about the real crisis in law school being

that there are not enough jobs out there, but I do not think that is right. I think if we were still charging \$4,000 a year to attend law school, and if the students did not get a job as a lawyer, then they could still graduate and do other things. Now, if you graduate and have \$125,000 in debt, there are not a whole lot of other careers available to help you sustain that debt load.

The critics you may be seeing out there who keep talking about how law schools are constrained by the ABA rules and cannot innovate are just nuts. The costs of legal education are not, and I cannot be clearer on this, caused by ABA rules. Go look at non-ABA accredited institutions and ask whether they are cheaper. Seriously, go look. This is not the time for an extended discussion of what drives up law school tuition (and in some cases it is merely greed, at others sunk-costs, and at others a strong correlation between student willingness to pay and value received).

We at ASU have frozen tuition every year I have been dean. Maybe that is sustainable for longer. But at some point we have to face reality that most law schools will continue to raise tuition and most law students will continue to go into debt for the opportunities a JD provides. Much of the world has called for radical cuts in tuition. I am here to say that this is not going to happen at ASU. It may be possible at other schools, but to the extent critics of legal education continue to call for radical cuts I think they are going to be disappointed. So, I ask, is there another way forward? Can we provide value to students without cutting costs (although I do hope we can stop the rapid rise we have seen over the last decade)?

The answer cannot be that we are just going to cut costs, put our heads in the sand, hope that the economy turns around, and everyone is going to get back to where we were a few years ago. If we are not proactive in trying to change the dynamics for our students, and change the dynamics again of our local communities, I do not think we are going to succeed in moving forward. I think there are things we can all do, and there are things ASU is doing.

What are the endgames? How are we going to shape lawyers' careers beyond just the JD? To start, I want to make this very clear: I do not think there is an education crisis, believe it or not. I believe in the legal education. I think it is a phenomenal degree. Dean Tom Campbell knows this as well as anybody.

I have been teaching in business schools for almost twenty years now, and the JD is a fabulous degree compared to the MBA or just about any other degree of which I know (from a purely

pedagogical perspective). I just think that both degrees are great for what they do, but the analysis, the analytical thinking, the reasoning skills, and the problem-solving skills that law school teaches you over a three-year period is crucial to success in almost anything.

I am a real believer in legal education, and I am also a believer in faculties. I think faculties have done a very good job over the last ten, fifteen, twenty years of responding to the changing needs of our students. Now, when I say this, let me be clear. Faculties have been good innovators. All around the country we see experimentation and addition at law schools—many of which were clearly aimed at aiding students in both their studies and careers. Additions of clinics, supervised externships, practical skills, transactions models, and internationalization are just a few of the massive changes we have seen at law schools in the last two decades. However, faculties do have a problem.

What faculties are great at is adding. They are not so great at getting rid of things we do not need anymore. This is not surprising. Once people have been hired, paths set, and dependencies merged with expectations, it is difficult to shed ideas, projects, and programs that are no longer working. These may increase costs for students—but I think that discussion is incorrect. The costs are already set—law schools need to think more clearly about how to ensure a connection between costs and value for their graduates.

Last week, I was in Los Angeles with a program involving the heads of hiring partners in law firms and a number of deans. We were talking about what law firms want. And guess what they want? They want everything we have been doing for ten or twenty years. They just want us to do it well into their careers. In short, they want us to continue to teach our graduates, train them, and make them even more productive attorneys than we have done in the past. And, to my mind, most responsible law schools have already done a fair bit to achieving those goals.

The number of clinics, the changes in curriculum—there is so much room for law schools to innovate and I think they have done it. If you go look at your law school today compared to what you took, I think you would not even recognize the school you attended. Even Yale has some changes from what I hear. I have not been allowed on campus, but I understand it to be true.

So I think you will see that I do not have a problem with us as educators. We can do better, but we do not have a problem with it. I do not think we need to blow up the legal education

system. I think, again, it is great to have schools innovate. If another school wants to go to a completely different curricular model after a very long period of time, I applaud that. I think it probably does make sense for them, their students, their communities, and their institutions. But I actually think the traditional legal education—a first year curriculum that focuses tremendously on writing, analysis, skills, and reasoning—is the key to being a great lawyer. And then a second year in which people take courses learning more about doctrine, learning more about advanced areas, is a wonderful entrée to the profession. And then at our school, we do not have requirements but we have a huge number of clinics, a huge number of externships, and the vast majority of our 3Ls do take clinics and externships. Students are saying, “This is what we think we need,” and our school has a program that is available to them. So I think legal education is strong as long as we view it in specific instances.

The real issue with legal education is as an industry. It sounds a little crass to speak of law schools this way—but we are an industry, and I think we could do a lot better. And this is the point of this talk, which is what I think we have failed to do in our careers, not within the classroom, but the law school administration itself, as an institution, as a service industry. Not just as a place that you come and are educated as a student in a rigorous environment and then are released into the world—and then bugged every three months for money. Something beyond that is what I think we as law schools need to be doing.

There has to be a way that we can recognize that our students should have a lifetime connection to what we provide: education. We need to have a way to say, “As soon as you come to this law school, you are not just here for three years. You are here for the rest of your career, and we are here for you.” Which I do think is different than what most law schools have thought about. Most law schools say, “We have you for three years—and again, we pour our hearts and souls into making you a great lawyer—but then when you graduate, off you go. And we will talk to you again hopefully when you make a lot of money, right?”

When I became dean, one of my first experiences was with a successful alum. He and I had a conversation, and he said, “Look, I loved the law school. Believe it or not, even those jerk professors, I even liked them. Everything about it; I enjoyed my classmates; the administration supported me my entire three years there; it was a truly fantastic experience. I loved the law school. And then I showed up for graduation, my parents were there, they were beaming with pride. I was so excited to start my career. I landed a great job, and I wanted to sort of thank

everybody, but as I was being handed a diploma by the dean I heard the sound of a door slamming behind me, and that is the last time I ever had connections to this law school.” Now, to apologize on behalf of administrators everywhere, it is tough to follow up with every single alum throughout their careers. Instead, we need to find a way to open ourselves up to allow our alums to come back.

What are some of the ideas? I am not positive about how to make this happen. But we have a bunch of different things we have launched to think about how to make law schools a service organization to everyone who comes through that door. So what can you do to create that lifelong connection? And, again, not as a guarantor of jobs, but as an educator, because that is what we do—we are an education system. I have some ideas about that.

One is to increase the number of public interest positions for our graduates. One thing is clear: public interest positions have dropped off dramatically. From a law school that has its tradition as a public service law school—a whole series of programs to graduate lawyers who will work in the public interest—we have seen a near halving of graduates who end up in those positions, even a year or two out. So why is that? Well, one is debt. One is that public interest jobs do not pay enough to cover the debt load that our students have when they walk out the door. And this is coming from a law school that has frozen tuition for the last three years. For in-state students, it is only \$26,000; for out-of-state students, it is \$40,000; and it has an overall debt load of about \$100,000 for graduating students. Our tuition and debt load are well below the median of all the law schools in the United States. Yet, even we are seeing a huge drop off in public interest.

What else could be causing this drop off? Other answers are that fewer attorneys are retiring, and there are not as many non-profit, public interest organizations out there. You can track the number of public interest organizations, and you can see the number of public interest law firms dropping in the country. And, again, is it economics? Is it a lack of ideas? What is happening out there to make this work? I do not know the answer to these questions, but these are questions that are continually presented to me, and I am sure to many of you. What can we do about that? And that is what I am talking about here. What can we do about those problems, rather than go to the ABA and say, “Can you fix this for me?” because they do not fix anything, that is not their job. And rather than ask my fellow deans, to say, “Come on, we are all in this together. Can we do this as a single organization?” Small anti-trust problem, but generally speaking we are not going to get a lot of feedback that way. So instead, focus on your

own students, your own alums, your own community, and ask what can you do to try and change that?

We have one idea that we are hoping to launch here in the next couple of months; it is to have a venture capital forum every year in the summer. What would that look like? We are hoping to find people in town who are social venture capitalists. They have money, they believe in issues, and we could put alums and students in front of them to basically pitch their ideas, to say, "I want to start a public interest law firm in the following area, and what I am looking for is seed money, or maybe you just relieve my student debt." I do not care how it gets worked out. But there is something we can do. Instead of graduating people out into a community and saying, "Look, you have to go find sources of income, and you have to go and find your own way." Can we play a coordinating role? There are reasons to think we can. One reason is that we are there permanently. We are part of the fabric of Phoenix. We are part of the culture of Arizona, as I am sure you are all here in Orange County.

I do not think anyone is walking in the door expecting that we are actually going to get funders and students matched and launched at a high level or a high percentage. But what we can do is play a coordinating function for people after they graduate from law school. It does not seem that revolutionary to me to actually think in those terms; and yet, the vast majority of law schools do not do anything along those lines. They do not play a coordinating role. At the very least, that seems like something law schools can do to show their alums, to show their current students, that this is a lifetime connection and that we are here to provide services beyond just the classroom in ways that do not undermine in any way, the educational missions that we are undertaking. It does not change students into stakeholders and it does not change students into customers, because I do not think that is an appropriate educational model. It recognizes that students and alums are both. They are students at one point—here to learn and understand a curriculum that we here as experts have formed for them—and then when they leave they have a connection to the institution as a customer, essentially, playing a role in their lives as they go forward. That is just one idea.

One concept has always struck me as strange, and we are going to be launching an idea to address it in the next couple of weeks. You do the JD, you graduate, and then we still want to charge you full price for anything that happens out the door. What we are going to be launching is greatly reduced costs for continuing education for alums. And this is because we recognize

that the law is rapidly changing. You can tell that just by looking at our own curriculum, over a three-year, a five-year, or a ten-year period. It has changed dramatically from five years ago.

I was the first to launch a transactional clinic at ASU back in 2004—there had never been one. Now we have more. Why? Because we think that is something the market and our students desperately need to have in law school. How weird is it to train the next generation of lawyers, and then we have people out there desperate to learn these sets of skills, our graduates, who had the misfortune of graduating before those opportunities were available, and for us to say, “You want to learn? Pay again!”

I will give you another example. We have a very large Native American population, as people may know, in Arizona. The level of economic development on tribal lands has gone through the roof. And so we have thousands of alums out there seeking to prove that they are individuals that can help tribes think about their economic plans as legal consultants. But how do they get that level of expertise? How do they prove that? Well, at the moment, you can go to ASU and for \$40,000 you can have an LLM, or for \$1,500 you can take a CLE. These things just do not make sense to me. There has to be a way that we can work through your whole career and continue to be the main provider of education for you as you move forward. In short, taking the JD at your home institution should just be the first step in a “Law for Life” program that invites graduates back to learn from those who originally introduced them to the law to get more education—and to do that at greatly reduced prices.

In addition, I have always thought that it is odd that alums have to go to a recruitment agency, so we hired a full-time recruiter. Now this is, again, free, and it is not for current students, it is for alums. If you are looking to transition or you are looking for a first job, we have someone at the law school who is essentially your personal headhunter who charges you no fee and charges no fee to the employers that they contact on your behalf. This is part of what we can do in our own financial planning to think about services to provide people as they move forward. Again, it makes sense if you view your role as a school continuing after students graduate and become alumni.

Also, we meet with managing partners, mainly in Phoenix because I think our backyard is what matters for most of our graduates, but also other places around the country. We meet on a quarterly basis with hiring partners—there are thirty or forty of them—to try to talk about what is happening out there that we can do better. What can we provide, and are there changes to the curriculum that we should at least consider? They do not get to

dictate to us, because sometimes we think we have a better sense of what our students need than they do, but it at least lets us have that dialogue. And so, again, that coordinating role is something that I think we can do a far better job of doing.

One of our big ideas has been transitioning people into jobs when markets are tough. We have started our own law firm—the world’s first non-profit teaching law firm (financed entirely by private monies) for our graduates. We have hired a former managing partner of big firms here in town in Phoenix and he is going to be our inaugural CEO. So what is the goal of this? It is first and foremost an educational institution because it turns out that is what we do best. We have been developing a curriculum for what new lawyers might want to do in the first two years after they graduate from law school. We want to ensure associates in the ASU Alumni Law Group get the depth and breadth of experience that associates at big law firms can only dream of getting. We think this will make associates of the ASU Alumni Law Group not only attractive to large law firms but also, and this goes back to an earlier point, attractive to public interest organizations that cannot train. Or, finally, we train our associates in all aspects of law firm operations so they, individually or in groups, can pursue their own dreams. They know how to run a firm, they know how to run the business side of a firm, they know how to get clients, and they also know how to practice law in a way that makes all of this possible.

At a meeting with the managing partners last week—the ABA was there as well—there was a discussion about changing some rules. There has been a lot of pressure to change the rule that says students cannot be paid for an externship. Law firms are pushing for this change as much as law schools. Hearing of this initiative was, for me, a shock. On one level, it would be great if the students firms have already selected to hire, could spend the last semester of their third year in residence doing a full semester externship at a firm, being paid some small amount of money to avoid the FLSA issues, and being “trained” by that firm.

On the other hand, I do not think that this is the greatest model for developing broad-minded and public interest lawyers. This is going to shock a lot of people who practice, but I think law schools do a better job of educating lawyers than the law firms do. My experience with law firms over the last few years is that the way they are training first-, second-, and third-year associates is radically different from even the experience I had back in 1999 and 2000. And those who graduated and worked during an earlier period were probably mentored at a far higher

level than these students today. Law schools have different incentives to train than any law firm can—so paid externships concern me.

Let me tell an anecdote with all knowledge that anecdotes do not good policy make. I had lunch with a student, an alum, who is now an eleventh-year associate at a major law firm in the country. Eleven years in, this associate has not appeared in court, has not led a deposition, or, if he were a transactional attorney, has not led a deal or even a portion of one. In our conversation, it became clear that he was doing essentially the same work in year eleven that he was doing in year three.

One answer is that he may just be terrible, but he is still there at year eleven, so he must have some pretty good skills. And I know him, and I know he is a skilled attorney. The problem is how clients now approach the idea of paying for young attorneys. First, as first-year and second-year associates, clients object to having to pay for any part of their “training”—this is, again from many anecdotes, speaking to partners of large and small firms, regardless of whether the work they are doing is appropriate for newly minted lawyers. These same associates, from third year to, far too often, sixth or seventh, are then subject to client objections on the basis that they add no value beyond that of partner-level work.

The question partners often face is: At what point can you start billing for associate work in order to develop associate skills? The answer nowadays seems to be “never.” There are certain narrow areas where associates can be billed to clients, so that is where we assign the associates and that is all they are allowed to do. Let’s sum this up: Firms “train” associates only to the extent clients are willing to pay and, far too often, clients never wish to pay for associates unless they are “experts,” and “expertise” in the private sector is often defined by clients as partner-level work! Where clients pay the bills and firms must be client-centered, associate training and development are often the casualties.

Let me use one more anecdote from a public agency in Arizona. That agency had a long-standing rule: you could not be hired with fewer than three years of experience. That was their rule—and it worked for a long time, but not anymore. What they are finding is that, in the last five years, people with three years of experience have almost no experience at all. To paraphrase meetings I have had, “We are getting people walking in the door with three years of experience at the biggest firms in town—firms in L.A., firms in D.C.—and we bring them in, and they have not even done a third of the things that we expect people to

do in the first year here.” Instead, this agency is now interested in a shared training opportunity for newly minted lawyers.

This idea is great. But I think we, as a law school, can do it as well. That is what our ASU Alumni Law Group really is. It is driven by the curriculum and focused, as only a law school can, on continuing the training and education of our alumni. Here is how our non-profit teaching law firm will work. You join this firm. There are ten lawyers, or there will be, with a minimum of fifteen years of experience. Marty, our CEO has about thirty-five years of experience, and he has been the managing partner of the two biggest law firms in Phoenix, so this is someone who knows how to run a law firm, knows how to train associates, and knows how to do budgets—these are useful things. I hope Marty hires many people who also have real experience, plus an innovative spirit, because that is what I would like to see. But the idea is, when we bring in young associates, graduates of the ASU law school, to work at this firm for two or three years, first and foremost, they are mentored and trained. The cases they take are meant to match the curriculum. If at six months they have a cadre of five young litigators in the litigation group, but they have not gone to trial yet, they need to bring in cases at that point that will get this group in court and conducting depositions. It matches the curriculum, and the curriculum drives case selection. There has to be one hundred ways to do this and I hope others will experiment.

Greenberg Traurig, a very large national firm, has been doing something similar to this. They have been hiring a cohort of associates intending to perhaps keep none. They hire them at a reduced level, but they get to spend a year at Greenberg in a training program and at the end of that period of time, they can be hired, they can be told they are not being hired, or I guess they are also creating a third group. The idea is that they also see that there is a training problem: there is a market out there and an opportunity to meet that need. A law school that would not want to do that for its own graduates is something I do not understand.

Lastly, I have to build a building, and I am obsessed with it. It actually does reflect a little bit about this general ethos. This building itself is intended to reflect something specific to ASU. I do not think this is a building that everyone would want to build or would need to build, and could appear to be wasteful in certain ways because it has a lot of open space. It is split in two to create a shaded street—that is the goal. As you are walking up one of the major streets in Phoenix, you see this street just to the right of it that has shade all the way along. And so we assume that

people will want shade versus non-shade—that is one of the rules you learn in Phoenix. And so you will go in that direction, and once you get in there, we have a great hall, a 1,000-person hall. It actually has an airplane hangar door that is wide open, you can walk in, just sit, and have lunch. There is a restaurant on site, as well as a very large museum that is trying to convey to people the importance of law in their lives.

Now why do I want to do this? It is not inexpensive, and it is unusual to have nothing preventing the public from walking into this building. The first two floors are generally wide open to the public. It is a series of different places where they can be educated about the importance of law. We are no longer supported by our state legislature. We are, as of 2016, at near zero funding through taxpayer money. How are we going to change our future? Well, at some point, you have to be relevant to the community in which you live, because they are the people who are going to support you. When you are not open to the public, when you are not engaging them, when you are not out there trying to explain the law's importance to their lives, to explain that law is something more than coffee dropping in your lap, getting a lawsuit and a lottery win; then you are irrelevant. We need to make sure that people understand that law plays a beneficial role in justice and in their everyday lives. Law is about mediating disputes, it is about facilitating cooperation, and it is about ensuring all citizens get a "fair shake." If you cannot convince people about the importance of law and the importance of lawyers then we are not going to have a future. And I do not mean that just about ASU. I do not think the legal profession has a great future if it cannot start convincing people that we are agents for justice and agents for good, as opposed to just agents for profiteering. And it has to start at law schools, it has to start in communities, it has to start with your alums, and so this building from top to bottom has been thought about in those terms.

Will we succeed? I have no idea. Am I even right? I have no idea. But I am definitely looking forward to hearing from all of you. I am not quite sure what the answer is there. So thank you all for indulging me and I look forward to your questions.

[The Questions and Answers portion follows.]

Dean Daniel Bogart: I know that many of the faculty here can tell you, we have spent a good part of the last year and a half on some pretty significant curricular review. I see some of the same ideas, and I see different ideas. We have a person who is assigned to alumni looking for career help post their first job, and I think that those things are important. We also have revised our

expectations just within the classroom to incorporate a set of skills. I look at this idea that law schools should be more than just a place in which you get your education during those first three years, and after that you are on your own—as you say, the door is closed. I would have said ten years ago that was not really all that possible, that technology would not have permitted it. My first question is, whether this is only possible because technology lets you do it now? And the second question I will ask has to do with this law firm post law school. It is a fairly expensive model, not one that I think most schools would be able to emulate easily. And so since you asked for our good ideas, I am going to ask you where you got your money.

Sylvester: I will start with the former question. I think technology helps, but there is something about the in-person teaching model that I think is part of what is making law school so successful. I am somewhat resistant to the notion that people learn as well—and I am a digital person—digitally, as they do in person. And so I am hesitant to think that we are going to fully expand to a massively technological model. And if we do, I think it will be a lesser model than what we currently have. Most of what we are doing with these LLMs is mostly in person. What makes this possible, at least for us, is we have a large metropolitan area around us, we have a general level of exclusivity within that region, and so most of the people in town who are practicing law are within just a few blocks of where this building is going to be. So we think we are going to have many people coming back in person. Where we do not, I think we will use technology. I do not think there is any doubt about that. One of the things technology clearly can do is reduce the overall costs of providing these things. I guess the question ultimately is—and it is incredibly individual—looking at your own budget, are you prioritizing things in this sort of way? Every firm, every company, goes through these sorts of questions. In times of crisis, they have to be looking at how they have been allocating resources and saying, can we make some small changes?

So, where did I get my money? We allocated some resources for a while. It is all private donations. There is no public money; that is actually one of the complications we had as a public institution, we cannot suddenly compete in the marketplace. So this ASU law firm is its own stand-alone corporation. It is just a license of the ASU name, and it is supported solely by private donations that could have been used to endow another professorship or increase scholarships or other programs. These are private donations that could have been used, frankly, to increase travel and for some conferences. And so, over the last

three years, what we have essentially done is shepherded some portion of private donations that we have been able to receive each year and allocated them to a fund that will create an endowment for this non-profit company. Now, that said, it is not the most fully funded institution in history. If we just fund it out of what we put into the endowment, if it cannot bring in other revenues itself, it is going to be out of business in about two years. So it has to bring in other revenues, and I need to be looking at other sources, including grants, to try and support this. But I think it is an idea that can work. I think it is an idea that is worth boldly failing at, and so we are going to give it a shot. And I think that is probably the best answer for us and our community.

Audience member: I am going to pick up on the discussion of cost. Because of the third-year externships and the third-year clinics, the student-faculty ratio has changed over the last ten years from 20:1 to 8:1, and that is a very expensive thing. We do not have Kingsfield talking to 150 students; we have one professor supervising a clinic with five students. And so one of the things we have done with at least some of our clinics is create a tie-in with our alumni—they become supervising attorneys. We also partner with a law firm, and it gives them the opportunity to assign their young associates to conduct the depositions because they are not paid matters. Young associates at some of the firms in the country are getting exposure to depositions early through our clinics and working side-by-side with our students. So I think one of the ways you might minimize costs and expand that connection is utilizing that clinical role, not just with your law firm, but with the other firms as well.

Sylvester: That is a fantastic model. You are all very lucky. I am going to steal that, but that is okay. And I hope we do that. I actually hope that this is what we do instead of looking for some single solution for everything we are trying to do; you can look at what makes sense for your school. There are clearly certain places where our law firm would not work. If you are in a rural area, I do not think you are going to be able to sustain a true law firm model on the basis of what we have created.

What we have done is have a single seat for every student in the clinic, which means we are undersubscribed in most of our clinics. We have, quite frankly, for the size of our student body, too many clinics, and all of our clinics are faculty-based. So we have grown our faculty by about sixty percent in the last twelve years almost entirely on the clinical and the professional skills side. And so that might be out of balance. These are the kinds of things you need to take a look at and decide from year to year. Is

this what is going to make sense for our students and what we want to do going forward? And if it does not, are there better ways to try and put those together? I do not think we should ever make educational choices based on the economics, but I am not saying that we ignore the economics. Claims of cutting law school to two years—I am perfectly happy to have that conversation; except ninety percent of the people raise it for one reason only, which is: law school is too expensive, let us cut it by a third. That does not make any sense to me as an educator. As someone who believes in legal education, if there are good reasons to have a three-year degree, if there are reasons to have a four-year degree—I do not know if there are—then that is what I think we should do. We should not let the economics drive the pedagogical choices we make. But when we can get the same kind of pedagogical events, when we can have the same educational system, and we can find ways to do it in a more flexible and cost-effective manner, I think we absolutely should.

Audience member: I had a question about the CLE programs. What role do you envision for existing faculty in such programs? And, secondly, how do you incentivize the faculty to do such things?

Sylvester: I actually tell the faculty to stay away. We consciously use our CLE program in a quite specific way, and it is not what I think we hired faculty to do. Most of the faculty we have are phenomenal classroom teachers and great scholars and researchers. That is what we want them to focus their time on. What we do for our CLEs is we have a massive alumni base. What made sense for us is—this is a great way to meet potential clients—if you are trying to build a base, we will put on a CLE for you. The only thing we ask is that you are not going to get paid for it, and in fact, if there are alums in that CLE most of them get to attend for near-free. People from other law schools are certainly welcome to come, but there is going to be a fee for them. But it is a way of saying, once you have graduated from law school, the education at the law school should be essentially subsidized by the JD that you have. And so we do not ask faculty to be deeply involved.

The law firm itself has no faculty involvement whatsoever. The law firm itself is a separate 501(c)(3) sister organization to our alumni association so it has no faculty involvement. I am a strong believer in the faculty-run academic life of the institution, but there is an administrative side that I am talking about here. Focusing on the institution as a service organization is not a faculty role unless they want to have it. But it is not something we hired faculty to do. So unless it is really something that you

have a passion for, the idea that we would make you do it is not something that I am interested in doing.

Audience member: Do you think there are different models for law schools? Colleges have research institutions, small undergraduates have a co-op model. In your presentation, it seems to me you threw a carpet over existing legal education and said, “We are doing a great job, and let us look at what else we can do.” Do you think there is room for more variety in the type of law schools, where some law schools focus on research and some law schools focus on practitioners? I come from a practice background, and to say people are in a legal industry is like saying Joe’s Autobody is in the legal industry and Toyota is in the legal industry. It seems like law schools are more or less one program.

Sylvester: I think that there can be room. The only way the system works is to have variation, flexibility, and adaptation in each school. And it has to be what you think works for you. I am nervous—again, just as an educator—about one particular model. I think there is plenty of room for variation if what we are also taking into account is the futures of the people from those institutions. And it is hard to know what that answer would be. If a two-year practitioner-based model—the idea is we are going to teach you to run your own firm—could turn into lucrative and decent careers at a low cost for graduates, then I think that is a great idea. If it is like certain for-profit online universities that do not seem to take into account what is going to happen to the people after they pay their tuition, then I am not so sure that is a great future. So I am not positive that we have a good idea of what those alternative models would look like.

I am very nervous about a fully online legal education as something serving the legal profession and changing the dynamics that I was talking about at the beginning. If the crisis we have here is that lawyers are here to serve good and that lawyers are educated and ready to make a positive difference in this world, I am not sure the kind of future that many are advocating is really going to get us there. I am not sure that what we have is perfect by any means, and I think there is room for variations, but I am deeply suspicious of a fully online, for-profit, one-year legal world with apprenticeship.

What I am suggesting is that law schools have a tremendous vested interest in having their law students become the kinds of lawyers that I said I hope we can all become. We have the interest more than firms do, we have that interest more than individual attorneys do, more than Mike’s Body Shop. We have that kind of interest in it, so if students and graduates cannot

otherwise receive that kind of training, we can take on that role. And maybe not everybody can. There are very few people out there that have the right kinds of incentives to make sure students are trained properly, and I think we are one of the few institutions that do. And if we can just have the boldness and the focus on these kinds of solutions, I think we could make a real positive difference, and I think that is a better solution than going to a two-year model of law schools.

Audience member: You have spoken about the decreasing number of public-interest attorneys that law schools are producing and solutions for administrations and faculties, but what can student-based organizations do to help produce more public interest attorneys and encourage students to pursue public interest jobs?

Sylvester: I am not sure you can, to be honest with you. I will use ASU as an example: our students graduated last year a class of 200 or so with 114,000 hours of pro bono work; I always say to the city of Phoenix that is about an \$11 million economic benefit we provide. We have a full-time administrator for pro bono. We have a full-time administrator for externships. Our students have about dozens of pro bono organizations; that is what drives these pro bono hours. And through the clinics themselves we have a huge amount of effect. So students show real interest in public interest while they are in law school, a real dedication to it. Sacrificing, sometimes probably more than they should, time for studying and class time to carry out the things that are in their hearts. So we are doing something right in law school. I think the students we are enrolling nowadays—especially because of the concern about jobs—really want to be lawyers, and they really want to make a difference. And so, I have seen a real charge on the students to do these things. It is at the moment of graduation out into the market that I think it is ending. And so, as alums, I think you can play a big role once you are out, to create these organizations and to then look to young attorneys to fill the needs you have to advocate the interests that you hold dear. I am just suggesting one role law schools can play. I think law schools can do it in about twenty different ways, but we can play coordinating roles between you and members of the community to get things done. I do not think we can set up public interest organizations for you, but I think you can do it as a student. I do not know, unless you are committed to public interest as a group—and I bet you all are—if there is much you can do in law school, except to keep going and looking for opportunities wherever you can find them, and try not to lose faith in the things that brought you to law school to begin with.

