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# Economics, EQ, and Finance: The Next Frontier in Legal Education

Pamela Bucy Pierson

## Introduction

As the sole portal to the legal profession, we, as legal educators, are caretakers of the legal profession's future. Given the dramatic recent changes in the legal marketplace,<sup>1</sup> we should assess whether we are providing our students with the tools they need to practice law in the twenty-first century. This article suggests that to meet our obligation law schools should provide three tools that we historically have not provided: (1) an understanding of the economic factors that shape the legal profession; (2) principles of emotional intelligence (EQ) relevant to the practice of law, such as using one's strengths, managing stress, maintaining balance in one's personal and professional life, and developing resiliency for life's challenges; and (3) training in personal financial management adequate to manage a career characterized by constant change and, for almost ninety percent of law students, significant educational debt.<sup>2</sup> These are not topics traditionally taught in law school, but then, that's the point: The legal profession of the future is not the profession of the past.

This article analyzes data gathered in 2014 and 2015 in a survey of U.S. accredited law schools to explore the reasons why competency in these three areas is crucial to tomorrow's lawyers.<sup>3</sup> These data are exciting. They show a rich, diverse, and innovative range of approaches law schools are taking

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1. RICHARD SUSSKIND, *THE END OF LAWYERS* 269 (2010).
2. Eighty-six percent of 2012 law graduates graduated with an average of \$140,616 of combined debt from undergraduate and law school. AM. BAR ASS'N, LAW STUDENT DIVISION REPORT TO JUDY PERRY MARTINEZ, CHAIR, AM. BAR ASS'N COMMISSION ON THE FUTURE OF LEGAL SERVICES 2 (Dec. 10, 2014), [http://www.americanbar.org/content/dam/aba/images/office\\_president/law\\_students.pdf](http://www.americanbar.org/content/dam/aba/images/office_president/law_students.pdf) [hereinafter LAW STUDENT DIVISION REPORT] (citing data from the National Association for Law Placement).
3. See AM. BAR ASS'N, *Standard 302: Assessment of Student Learning*, in STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2014-2015 15 (2014) ("A law school shall . . . include competency in . . . professional skills needed for competent and ethical participation as a member of the legal profession.").

to bring these tools to law students. It also shows more needs to be done. Part One of this article discusses the tools: what they are and why they are needed. Part Two discusses the data gathered. Part Three offers observations and recommendations.

### I. The Tools Needed

The theme of the three tools at issue: Economics, EQ, and Finance, is self-management: how to manage oneself and one's career.<sup>4</sup> Self-management will be essential in the legal profession of the future. Historically, a lawyer graduated from law school, joined a law firm as new associate, and remained with that firm for an entire career.<sup>5</sup> Today, the average lawyer changes jobs seven times in a career, an average that is likely to increase as the legal profession becomes even more fluid.<sup>6</sup> To be successful, lawyers will need to be entrepreneurial, business-savvy, self-aware, resilient, stress-hardy, and financially adept.<sup>7</sup> Free agency will dominate the legal profession as lawyers change jobs, practice areas evolve, and lawyers have to constantly update and demonstrate the professional value they add.<sup>8</sup> To be effective free agents, lawyers will need to understand the economic forces shaping their profession and the challenges the market poses to them, professionally and personally. Lawyers will need to think of themselves as a business: able to assess their assets, liabilities, strengths, investments they have made in themselves, and investments they need to make.<sup>9</sup>

#### A. Tool One: An Understanding of the Economic Forces Shaping the Legal Profession

"Tool One: An understanding of the economic forces shaping the legal profession" addresses the opportunities presented in the legal profession of the future. These opportunities arise from: technology;<sup>10</sup> new ways of delivering

4. ON MANAGING YOURSELF (Harvard Business Review Press ed., 2010); PETER F. DRUCKER, *MANAGING ONESELF* (2008). Cf. Lawrence S. Krieger, *The Most Ethical of People, The Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation*, 8 U. ST. THOMAS L. J. 168 (2011).
5. William D. Henderson & Leonard Bierman, *An Empirical Analysis of Lateral Trends from 2000-2007: Emerging Equilibrium for Corporate Law Firms*, 22 GEO. J. LEGAL ETHICS 1395, 1426-27 (2009) (describing how the Cravath business model for law firms has changed, with the result that associates no longer remain with the same firm throughout their careers).
6. PAMELA BUCY PIERSON, *THE BUSINESS OF BEING A LAWYER* 243 (2014).
7. SUSSKIND, *supra* note 1; PIERSON, *supra* note 6, at 166-67.
8. See, e.g., Daniel Martin Katz, *Quantitative Legal Prediction—Or—How I Learned to Stop Worrying and Start Preparing for the Data Driven Future of the Legal Services Industry*, 62 EMORY L.J. 909, 930 (2013).
9. PIERSON, *supra* note 6, at ix, xii-xiv.
10. See, e.g., SUSSKIND, *supra* note 1 at 102-39; William D. Henderson & Rachel M. Zahorsky, *Law Job Stagnation May Have Started Before the Recession—And It May Be a Sign of Lasting Change*, A.B.A. J. (July 1, 2011, 9:40 AM) [hereinafter Henderson & Zahorsky, *Stagnation*]; William E. Hornsby, *Gaming the System: Approaching 100% Access to Legal Services Through Online Games*, 88 CHI. KENT L. REV. 917, 932 (2013).

legal services such as limited scope representation;<sup>11</sup> dual and hybrid careers that build on training in multiple professions;<sup>12</sup> entrepreneurial opportunities in contract lawyering, affiliated law practices,<sup>13</sup> and “practices in the cloud.” Tool One also addresses the professional responsibility issues raised by these opportunities.<sup>14</sup>

In recent years every aspect of the legal profession has undergone a seismic change: how legal disputes are resolved, how legal services are delivered, what outcomes are expected, how outcomes are measured, who hires lawyers and why, what is expected of lawyers, how lawyers are evaluated. As Richard Susskind states,

“The old system, one that has allowed lawyers to under-perform and overcharge, is ... displaced by a new model, under which all law firms are subject to far greater scrutiny and competition—on availability, price, performance, and client satisfaction. The free market [has come] to the world of law.”<sup>15</sup>

11. PIERSON, *supra* note 6 at 240-42 (discussing the growth of Limited Scope Representation (LSR), noting that all fifty states have amended their rules of civil procedure and codes of professional responsibility to permit LSR, and how LSR provides greater access to legal services for those in need and opens new markets for attorneys). AM. BAR ASS’N STANDING COMMITTEE ON THE DELIVERY OF LEGAL SERVICES, AN ANALYSIS OF RULES THAT ENABLE LAWYERS TO SERVE SELF-REPRESENTED LITIGANTS (2014), [http://www.americanbar.org/content/dam/aba/administrative/delivery\\_legal\\_services/ls\\_del\\_unbundling\\_white\\_paper\\_2014.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_unbundling_white_paper_2014.authcheckdam.pdf); AM. BAR ASS’N, SECTION OF LITIGATION, HANDBOOK ON LIMITED SCOPE LEGAL ASSISTANCE (2014), <https://apps.americanbar.org/litigation/taskforces/modest/report.pdf>.
12. PIERSON, *supra* note 6, at 210-13 (discussing how attorneys with dual training can leverage opportunities in law and law-related professions of business, higher education and sports). *See also* Henderson & Bierman, *supra* note 5, at 1417 (data from large (Top Five) legal markets show that those with experience at DOJ garner salaries up to \$150,000 per year higher than other lateral hires).
13. *See* Michael C. Ross, *Law Firm Diet: Reduce Firms—Reduce Costs?*, ALTMAN WEIL INC. REPORT TO LEGAL MANAGEMENT 5 (Oct. 2004), [http://www.altmanweil.com/dir\\_docs/resource/741e6590-ad12-492e-ab61-96d99338da3c\\_document.pdf](http://www.altmanweil.com/dir_docs/resource/741e6590-ad12-492e-ab61-96d99338da3c_document.pdf); PIERSON, THE BUSINESS OF BEING A LAWYER, *supra* note 6 at 184-85 (discussing the “starfish” business model of law practice that includes increasing reliance on law firms spinning off nonprofitable practices and relying on affiliations with law firms to handle these specialization practices).
14. Hornsby, *supra* note 10; NALP & AMERICAN BAR FOUNDATION, AFTER THE JD III: THIRD RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS (2014) (Data collected from thousands of 2000 law graduates studied longitudinally on how they have fared during their careers, including career satisfaction). *Cf.* Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871 (1999); NANCY LEVIT & DOUGLAS O. LINDER, THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW 78-111 (2010).
15. SUSSKIND, *supra* note 1 at 110. *See also* Henderson & Zahorsky, *Stagnation*, *supra* note 10; Rachel M. Zahorsky & William D. Henderson, *Who’s Eating Law Firms’ Lunch?*, 99 ABA J. 32, 37 (2013) [hereinafter Zahorsky & Henderson, *Lunch*]; PIERSON, *supra* note 6 at 166-85 (discussing how changes in client behavior have changed the practice of law and affect the lives of law firm partners and associates) and 185-90, 206-42 (discussing new opportunities for the practice of law in the legal marketplace of the future).

Changes in the legal profession will affect all career paths, whether private practice, government or public interest, or law-related fields such as business, higher education, and technology. Consider the following:

- Traditionally, lawyers made most of the decisions about how their services were organized, scheduled, and staffed, what legal strategies were pursued, and which outcomes were sought. Today, clients make most of these decisions.<sup>16</sup>
- Traditionally, lawyers communicated with one another and with clients and the court system through personal exchanges. Today, technology dominates. Lawyers communicate remotely by email, text, Twitter, and Facebook; meet by teleconference; file documents electronically; brainstorm through attachments and editing functions; research online;<sup>17</sup> service clients and colleagues in multiple time zones; are expected to be available 24/7.<sup>18</sup>
- Traditionally, most legal problems were resolved through litigation. Today, most disputes are resolved through settlement, mediation, arbitration, or negotiation—changes that draw on new skills and training.<sup>19</sup>
- Traditionally, lawyers were in demand. Today, there are too many.<sup>20</sup> Within another decade, this supply-and-demand pendulum is projected

16. Cf. SUSSKIND, *supra* note 1, at 110.

17. PIERSON, *supra* note 6, at 164-66, 224-40.

18. The American Bar Association recognized the changes in the practice of law posed by technology when it added Comment 8 to ABA Model Rule 1.1 regarding the competent practice of law. Comment 8 states, “To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology....” AM. BAR ASS’N, *Comment on Model Rule 1.1*, in MODEL RULES OF PROFESSIONAL CONDUCT (2012).

19. See, e.g., Peter L. Murray, *The Privatization of Civil Justice*, 91 JUDICATURE 272, 272 (2015) (“[T]he civil justice decision-making function has been largely supplanted by a system of dispute resolution by private, profit-making actors and agencies, be they arbitrators or mediators.”); Thomas J. Stipanowich & J. Ryan Lamare, *Living with ADR: Evolving Perceptions and Use of Mediation, Arbitration, and Conflict Management in Fortune 1000 Corporations*, 19 HARV. NEGOT. L. REV. 1, 2 (2014) (describing ADR as “third-party intervention strategies intended to produce more satisfactory paths to managing and resolving conflict, including approaches that may be more economical, less formal, and more private than court litigation, with more satisfactory and more durable results.”).

20. PIERSON, *supra* note 6, at 172 (citing ASSOCIATE’S MIND, HISTORICAL LAWYER GROWTH DATA (Aug. 2013), <http://associatesmind.com/wp-content/uploads/2013/08/Historical-Lawyer-Growth-Data> (listing number of lawyers in United States in 1960, 1990, and 2012); and CENSUS SCOPE, UNITED STATES POPULATION GROWTH: 1960-2000, [http://www.census.gov/us/print\\_chart\\_popl.html](http://www.census.gov/us/print_chart_popl.html) (listing population in United States in 1960, 1990, 2012)).

to swing again, and there likely will be a shortage of skilled lawyers.<sup>21</sup> Both imbalances affect how lawyers are educated and how law is practiced.

- Traditionally, legal services were provided by lawyers. Today, businesses such as LegalZoom, Avvo, and Neota Logic provide legal operations, tools and other products that, in some instances, can deliver legal services better, cheaper, and faster than lawyers.<sup>22</sup> As Professors Rhode and Ricca note, these services are here to stay and they will grow.<sup>23</sup> Consider these data points: LegalZoom, a legal document provider that has serviced two million people, operates in forty-one states and the District of Columbia. In 2014, LegalZoom sold equity worth \$200 million.<sup>24</sup> Shake, a contract app, “has helped execute more than \$1 million in small-business contracts...”<sup>25</sup> Sixty to eighty percent of family law litigants today proceed *pro se*<sup>26</sup> using online services. By 2045, estimates the ABA, “most legal services will be provided on a limited scope basis,” in which clients will handle some or most of their cases themselves using online public services.<sup>27</sup>
- Between 1980 and 2008, the legal profession experienced robust growth (expanding at a rate of four percent per year).<sup>28</sup> Law firm revenues and lawyers’ salaries soared. Since 2009, the growth in legal services and

21. PIERSON, *supra* note 6 at 163 (“Demographics favor those entering the legal profession today. The current bar is dominated by baby boomers who are ... likely to retire over the next decade or two. These retirees will need to be replaced. In 2010, the 45-64 age group constituted 26.4% of the United States population and the 65-older age group constituted 13.0% for a combined total of 39.4% . . . . This means that over the next ten to twenty years, 40% of Americans will be retiring. In the legal profession, the 45-65 and older age group dominates the top of the profession, making up 70% of law firm partners. As these lawyers retire, there will be more positions to fill than people to fill them. There are 76 million Baby Boomers (those born between 1946 and 1964) and only 46 million GenY-ers (those born between 1985 and 2000.”)(citations omitted).

22. William Henderson, *What the Jobs Are: New Tech and Client Needs Create a New Field of Legal Operations*, A.B.A. J. (Oct. 1, 2015, 6:00 AM), [http://www.abajournal.com/magazine/article/what\\_the\\_jobs\\_are](http://www.abajournal.com/magazine/article/what_the_jobs_are); Deborah L. Rhode & Lucy Buford Ricca, *Protecting the Profession or the Public? Rethinking Unauthorized-Practice Enforcement*, 82 FORDHAM L. REV. 2587 (2014); cf. AM. BAR ASS’N, THE RELEVANT LAWYER (Paul A. Haskins ed., 2015) [hereinafter THE RELEVANT LAWYER].

23. See Rhode & Ricca, *supra* note 22, at 2607-08.

24. THE RELEVANT LAWYER, *supra* note 22, at 39.

25. *Id.*

26. *Id.* at 40.

27. A.B.A. Bar Services (@ABABarServices), TWITTER (Aug. 15, 2015, 7:43 AM), <https://twitter.com/ABABarServices/status/632563341848739840?s=03>.

28. GEORGETOWN LAW, CENTER FOR THE STUDY OF THE LEGAL PROFESSION, *Report on the State of the Legal Market 3* (2014) [hereinafter STATE OF THE LEGAL MARKET]; cf. Henderson & Zahorsky, *Stagnation*, *supra* note 10.

lawyer salaries has been flat.<sup>29</sup>

- Traditionally, stability prevailed in private practice. A new law graduate joined a law firm as an associate and remained with the same firm throughout a career. Associates were mentored by the partners in the firm and groomed to take over the firm's work. Clients were loyal to law firms and remained with the same firm for years. Partners shared equally in a firm's profits.<sup>30</sup> Today, instability rocks the private practice of law. Mergers, acquisitions, and dissolutions of law firms have been increasing every year since 2008.<sup>31</sup> Partners shoulder increasing pressure to bill hours, retain clients, and keep their firm intact. They have less time to mentor new lawyers. There are fewer opportunities for new lawyers to learn because many clients will not pay for time billed by new associates. Pressured to cut legal costs, clients jump from firm to firm, shopping around for the best value based on metrics of fees, expenses, and success rates. The flow of partners, practice areas, clients, and associates in and out of law firms makes it difficult to preserve a "firm culture," further eroding lawyers' and clients' incentives to stay with a firm.<sup>32</sup>
- Government and public-interest careers have become increasingly attractive given loan forgiveness programs that apply to many such positions,<sup>33</sup> the instability that prevails in private practice,<sup>34</sup> and the opportunities for experience government service provides early in one's career.<sup>35</sup>

As these facts demonstrate, the seas are rough for lawyers who are not prepared for the new legal marketplace. They also present exciting

29. STATE OF THE LEGAL MARKET, *supra* note 28.

30. Steven J. Harper, *Pop Goes the Law*, CHRON. HIGHER EDUC., Mar. 11, 2013, <http://chronicle.com/article/Pop-Goes-the-Law/137717>.

31. PIERSON, *supra* note 6, at 173, 199. CITI PRIVATE BANK HILDEBRANDT INSTITUTE, 2013 CLIENT ADVISORY 18 (2013), [http://hildebrandtconsult.com/uploads/Citi\\_Hildebrandt\\_2013\\_Client\\_Advisory.pdf](http://hildebrandtconsult.com/uploads/Citi_Hildebrandt_2013_Client_Advisory.pdf).

32. Henderson & Bierman, *supra* note 5, at 1412, 1423-24; Jennifer Smith, *On Sale: The \$1,150-Per-Hour Lawyer*, WALL ST. J., Apr. 10, 2013, at B1.

33. See, e.g., FINAID, *Taxability of Student Loan Forgiveness*, <http://www.finaid.org/loans/forgivenessstaxability.phtml> (last visited Mar. 31, 2016); INTERNAL REVENUE SERVICE, *Student Loan Cancellations or Repayment Assistance*, <http://www.irs.gov/publications/p970/cho5.html> (last visited Mar. 31, 2016); U.S. DEPARTMENT OF EDUCATION, FEDERAL STUDENT AID, *Income Driven Plans*, <http://studentaid.ed.gov/repay-loans/understand/plans/income-based> (last visited Mar. 31, 2016).

34. PIERSON, *supra* note 6, at 182-83 (discussing, for example, Henderson & Bierman, *supra* note 5, at 1412, 1423-24).

35. Henderson & Bierman, *supra* note 5, at 1412, 1420.

opportunities for those who are prepared.<sup>36</sup> Tool One educates students about these opportunities, and how, as new lawyers, they can seize them.

*B. Tool Two: Principles of Emotional Intelligence (EQ)*

Emotional intelligence (EQ) is the development of “internal skills”, managing one’s emotions,<sup>37</sup> motivating oneself in the face of frustrations, controlling one’s impulses, delaying gratification; and regulating one’s moods.<sup>38</sup> EQ also includes “external skills” of collegiality, empathy, teamwork, leadership and followership.<sup>39</sup> Graduate business schools have taught EQ for years in rigorous, systematic courses.<sup>40</sup> Law schools are beginning to do likewise. Consider these facts:

- In a profession as complex and nuanced as the law, EQ matters as much to one’s success as does mastery of the law.<sup>41</sup> As Stanford Law Professor
36. SUSSKIND, *supra* note 1, at 269 (“The future of lawyers could be prosperous or disastrous.”).
37. See, e.g., DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE 34 (1995); cf. MARTIN SELIGMAN, AUTHENTIC HAPPINESS: USING THE NEW POSITIVE PSYCHOLOGY TO REALIZE YOUR POTENTIAL FOR LASTING FULFILLMENT 45-62 (2002).
38. SELIGMAN, *supra* note 37 at 42-62; LEVIT & LINDER, *supra* note 14 at 18-48; PIERSON, *supra* note 6, at 1-75 (Chapter 1: The ABCs of EQ for Lawyers).
39. Jean R. Sternlight & Jennifer K. Robbennolt, *Psychology and Effective Lawyering: Insights for Legal Educators*, 64. J. LEGAL EDUC. 365 (2015); cf. ROBERT E. KELLEY, HOW TO BE A STAR AT WORK (1999).
40. See, e.g., HARVARD BUSINESS SCHOOL, COURSE CATALOG 2015-2016, *Authentic Leadership Development*, <http://www.hbs.edu/coursecatalog/2090.html> (last visited Mar. 31, 2016) (“The purpose of [this course] is to help you become more effective, authentic individuals and leaders. We do this by carving out some sacred time and space in your busy lives to engage in a theoretically-supported, disciplined, meaningful conversation about who you are and the purpose of your leadership.”); STANFORD GRADUATE SCHOOL OF BUSINESS, STANFORD BULLETIN 2015-16, *Entrepreneurial Leadership*, <https://explorecourses.stanford.edu/search;jsessionid=1jvt94yvqtzusk70uuqn5wzb?view=catalog&academicYear=&page=o&q=OB&filter-departmentcode-OB=on&filter-coursestatus-Active=on&filter-term-Spring=on> (last visited Mar. 31, 2016) (“Based on more than 200 interviews with leading entrepreneurs conducted over the past five years by Amy Wilkinson, this course will focus on the six skills of successful entrepreneurs. The class will include brief lectures and class discussions with a set of the successful entrepreneurs featured in a recent book authored by the instructor, ‘The Creator’s Code.’ The class is designed to help students integrate these skills into their own future ventures.”); NORTHWESTERN UNIVERSITY, KELLOGG SCHOOL OF MANAGEMENT, COURSE CATALOG AND SCHEDULE, *The Individual and the Organization*, <https://www4.kellogg.northwestern.edu/CourseCatalogSchedule/CourseDetail.aspx?CourseID=205628> (last visited Mar. 31, 2016) (Course focuses on “individual behavior in organizational settings. Topics [for analysis] include social cognition, decision making, negotiation groups, social influence, norms, fairness and equity theory.”).
41. PIERSON, *supra* note 6, at 1-2 & 81 n.2 (“A relatively high IQ seems to be required for success in a number of fields of human endeavor. People with IQs lower than about 115, for example [about 8 out of 10 individuals], are unlikely to succeed in medical school or law school.”) (citing DAVID LYKKEN, HAPPINESS: THE NATURE AND NURTURE OF JOY AND CONTENTMENT 51 (2000)).



Joseph Bankman noted when discussing the Emotional Intelligence course he and colleagues created for law students:

I have all these brilliant students whom I can help by giving them some useful knowledge and improving their analytical skills. But, as I came to realize over the years, if they crash and burn it will not be because they lack these necessary skills. It will be because they lack emotional resilience to cope with the stresses and challenges of a demanding professional career.<sup>43</sup>

- Law firms and clients recognize the importance of one's EQ skills when deciding which attorneys to hire or retain.<sup>43</sup> Studies of successful "brain-powered" workers confirm that EQ skills, not IQ, separate star performers from average performers.<sup>44</sup>
  - EQ will be increasingly important as new lawyers enter a profession characterized by change, disruption, and stress. Lawyers who develop EQ skills are more satisfied with life, and more professional. As Professor Lawrence Krieger has noted: "Psychological studies strongly suggest that emotional maturity, personal satisfaction, and the expression of the qualities of professionalism tend to accompany and encourage one another. [Thus,] satisfied lawyers tend to be more professional and . . . professional lawyers tend to be more satisfied."<sup>45</sup>
  - Our profession needs to tend to its EQ. A greater percentage of lawyers experience psychological distress than does the general population.
42. Rande Fenner, *Stanford Law Professor Creates New Way to Help Students Deal With the Stress of It All*, STANFORD NEWS (Apr. 7, 2015), <http://news.stanford.edu/news/2015/april/bankman-law-anxiety-040715.html> (quoting Joseph Bankman, Ralph M. Parsons Professor of Law and Business).
43. See, e.g., Brian Dalton, *Deviations From the Norm: The Lawyer 'Type' and Legal Hiring*, ABOVE THE LAW (May 20, 2014, 4:41 PM), <http://abovethelaw.com/2014/05/deviations-from-the-norm-the-lawyer-type-and-legal-hiring/> (discussing personality assessments tailored to the legal profession as aids in hiring associates and laterals); MARK LEVIN & BRUCE MACEWEN, *ASSESSING LAWYER TRAITS AND FINDING A FIT FOR SUCCESS* (2014), <http://therightprofile.com/wp-content/uploads/Attorney-Trait-Assessment-Study-Whitepaper-from-The-Right-Profile.pdf> (introducing the "Sheffield Legal Assessment"). See also PIERSON, *supra* note 6, at 2-3 ("Legal employers make hiring, promotion and retention decisions based on EQ, as do corporate clients when deciding which lawyers to retain. As one legal consultant notes: 'Corporations understand that emotional intelligence is a much greater predictor of success than grades, IQ, or test scores. . . . Law firms could improve their selection process . . . by incorporating emotional intelligence and related criteria.'") (citing Rachelle J. Canter, *Retaining Good Employees: Five Things Law Firms Can Learn From Corporations*, 38 L. PRAC. 50, 52 (2012)).
44. KELLEY, *supra* note 39.
45. Lawrence S. Krieger, *What We're Not Telling Law Students—And Lawyers—That They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing the Profession From Its Roots*, 13 J. L. & HEALTH 1, 16-17 (1998).

Lawyers are in remarkably poor mental health, with a higher incidence of depression, alcoholism, illegal drug use, and divorce than almost any other profession.<sup>46</sup> Law students who enter law school psychologically healthy show elevated psychological distress within months of starting law school with symptoms of depression, anxiety, and other psychological dysfunctions.<sup>47</sup>

- Psychological distress is harmful not only to individual lawyers but also to the clients represented by impaired lawyers.

Notably and especially in recent years, the legal academy has been exploring ways to integrate emotional intelligence skills into legal education. Symposia, scholarship, and law blogs regularly address emotional intelligence and mental health issues relevant in the practice of law. For example, at the 2014 annual meeting of the Association of American Law Schools (AALS), the Section on Balance in Legal Education presented a program titled, *The Many Connections Between Well-Being and Professionalism in the Practice of Law: Implications for Teaching*.<sup>48</sup> The University of Arkansas Law Review devoted a 2014 issue to presentation of papers presented at this AALS program as well as other papers solicited by the AALS Section on Balance in Legal Education.<sup>49</sup> The American Bar Association offers programs such as “EQ: What It Is and Why It Matters,”<sup>50</sup> as do state bar associations (“Emotional Intelligence and CLE? It’s About Time”).<sup>51</sup>

46. LEVIT & LINDER, *supra* note 14 at 6-7, 129-30, 233-34; Rick B. Allen, *Alcoholism, Drug Abuse and Lawyers: Are We Ready to Address the Denial?*, 31 CREIGHTON L. REV. 265, 265-66 (1997); Sue Shellenbarger, *Even Lawyers Get the Blues: Opening Up About Depression*, WALL ST. J., Dec. 13, 2007, <http://www.wsj.com/articles/SB119751245108525653>.
47. Brian S. Clarke, *Coming Out in the Classroom: Law Professors, Law Students and Depression*, 64 J. LEGAL EDUC. 403 (2015); Matthew M. Dammeyer & Narina Nunez, *Anxiety and Depression Among Law Students: Current Knowledge and Future Directions*, 23 L. & HUM. BEHAV. 55, 55-73 (1999).
48. AM. ASS’N L. SCH., 2014 ANNUAL MEETING, *Sessions* (Jan. 5, 2014), [https://memberaccess.aals.org/eweb/Dynamicpage.aspx?Site=AALS&WebKey=9efff27b-7614-458f-9afd-759dd0133foo&RegPath=EventRegFees&REG\\_evt\\_key=70c8b3ea-5ec9-404d-b7ec-88f6b1fa3020](https://memberaccess.aals.org/eweb/Dynamicpage.aspx?Site=AALS&WebKey=9efff27b-7614-458f-9afd-759dd0133foo&RegPath=EventRegFees&REG_evt_key=70c8b3ea-5ec9-404d-b7ec-88f6b1fa3020).
49. Volume 36, U. ARK. LITTLE ROCK L. REV (2004).
50. AMER. BAR ASS’N, *EQ: What It Is and Why It Matters* (Feb. 13, 2015), <http://shop.americanbar.org/eBus/Store/ProductDetails.aspx?productId=140242941&term=EQ%20What%20it%20is>, (“What emotional intelligence is and how you can improve yours; Why EQ adds practical value for judgment, problem solving, and decision making; How EQ enhances collaborative workplace dynamics, profitability, and client service.”).
51. Dan DeFoe, *The Other Kind of Smart—Emotional Intelligence and 21<sup>st</sup> Century Lawyer Professionalism, and Continuing Legal Education*, PSYCHOLAWLOGY (Feb. 5, 2015), <http://www.psycholawlogy.com/2015/02/05/kind-smart-emotional-intelligence-21st-century-lawyer-professionalism-continuing-legal-education/>.

*C. Tool Three: Personal Financial Management*

Personal financial management, managing one's own finances, is different from law office management practice. Not every student will need to know how to manage the finances of a law office. All students will need to know how to manage their own finances. Today's law students, more than any generation in the past, need training in personal financial management from the moment they enter law school. Yet while courses in law office management are a staple of most law school curricula, courses in personal financial management are almost nonexistent.<sup>52</sup> Nor, as discussed *infra*,<sup>53</sup> are ancillary programs, the vehicle most law schools use to address financial issues, adequate to meet the needs of today's students for financial education.

There are three financial facts that uniquely affect today's law students. These facts make it essential that law schools provide students the tool of personal financial management. The first economic fact is debt. Eighty-six percent of law students graduate with significant debt (an average of \$140,616 of combined debt from undergraduate and law school).<sup>54</sup> This level of debt will affect every decision of our students' lives: which job to take, where to live, and whether and when to marry, have children, and retire. Compounding the financial stress our students will face is the difficulty most will have paying off this debt. Postgraduation jobs paying annual salaries of \$40,000-65,000 account for almost half of reported salaries of new law graduates.<sup>55</sup>

The second financial fact facing law students today, regardless whether they carry debt, is that all adults of the future will bear greater responsibility for their financial security in retirement. Because of the aging American population and the financial pressure this will place on the United States Social Security system, Social Security will pay less of future generations' retirement costs

52. See Part II (A)(3) and Part II (B)(3) *infra*.

53. See Part III (A) *infra*.

54. LAW STUDENT DIVISION REPORT, *supra* note 2, at 2. Current law students carry an average law school debt of \$122,158 for 2012 law graduates from private schools, and an average of \$84,000 for 2012 law graduates from public schools. Notably, these figures for law school debt understate the debt amount because it does not include undergraduate debt, interest accruing before graduation, and debt from loans to study for the bar exam. AM. BAR ASS'N/YOUNG LAWYERS DIV., REPORT TO COUNCIL (Mar. 2014), [http://www.americanbar.org/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/council\\_reports\\_and\\_resolutions/march2014councilmeeting/2014\\_march\\_young\\_lawyers\\_division\\_report\\_authcheckdam.pdf](http://www.americanbar.org/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/march2014councilmeeting/2014_march_young_lawyers_division_report_authcheckdam.pdf).

55. LAW STUDENT DIVISION REPORT, *supra* note 2, at 2.

than in the past.<sup>56</sup> At the same time, more employers, including law firms,<sup>57</sup> are eliminating or significantly reducing the retirement benefit contributions traditionally included as standard employment benefits.<sup>58</sup>

The third financial fact facing today's law students is that the legal profession is undergoing dramatic changes, with more changes ahead. All lawyers of the future will face careers dominated by volatility and fluid employment patterns unknown in the past.<sup>59</sup> Managing one's finances in a rapidly changing profession and through multiple job changes is complicated and will necessitate more than minimal training in personal financial management.

Because of these financial facts, law schools owe students training on how to manage the mortgage they have taken on their future by attending law school. Although the decisions about whether and how much debt to undertake belong to debtors, the fact is law students incur their debt because of what

56. Gayle L. Reznik, Dave Shoffner & David A. Weaver, *Coping with the Demographic Challenge: Fewer Children and Living Longer*, 66(4) SOC. SEC. BULL. 37 (2005), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=994283](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=994283) ("Due to demographic changes, the U.S. Social Security system will face financial challenges in the near future."). In 2014, 12% of the total U.S. population is age 65 or older; by 2080, it will be 23%. In 2014, the working age population is 60%; by 2080, it is projected to be 54%. *Id.* The worker-to-beneficiary ratio, at 3.3 in 2005, is projected to fall to 2.1 in 2040 (the year in which the Social Security trust fund is projected to be exhausted). *Id.* The Social Security system needs a worker-to-beneficiary ratio of 2.8 for tax revenue to equal benefit payments. *Id.* at 40.
57. See, e.g., Erin Fuchs, *Lawyers' Benefits Next on Chopping Block: Experts*, LAW360 (Jun. 10, 2009, 12:00 AM), <http://www.law360.com/articles/105766/lawyers-benefits-next-on-chopping-block-experts> ("There is no question . . . every firm is reassessing its benefits plans . . . in order to trim down and get . . . into sync with the realities of the current market . . ."); Barbara A. Butrica, Howard M. Iams, Karen E. Smith & Eric J. Toder, *The Disappearing Defined Benefit Pension and Its Potential Impact on Retirement Incomes of Baby Boomers*, 69 SOC. SEC. BULL. 1(2009), <https://www.ssa.gov/policy/docs/ssb/v69n3/v69n3p1.html> ("The percentage of workers covered by a traditional defined benefit (DB) pension plan that pays a lifetime annuity, often based on years of service and final salary, has been steadily declining over the past 25 years.").

Because of changes in law firm business models (lateral hires, mergers) many firm retirement plans are "actuarially unworkable" and benefits must be reduced. Mary Welch, *Law Firm Retirement: 'Not the Gravy Train it Once Was,'* DAILY REP. (Mar. 20, 2015), <http://www.dailyreportonline.com/id=1202721217941/Law-Firm-Retirement-Not-the-Gravy-Train-It-Once-Was?slreturn=20160304144355>.

58. See Fuchs, *supra* note 57 (referring to "a coming wave of law firm reductions in employees' benefits packages as firms scramble to cut corners . . ."); Butrica et al., *supra* note 57; see also TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, STATISTICAL TRENDS IN RETIREMENT PLANS, *Results of Review 5* (2010) ("Employees of the future will bear the financial risk of saving too little. There are disturbing trends: more U.S. employees are withdrawing retirement savings prior to retirement, and Americans are living longer and sicker."). Cf. Michelle Singletary, *New Law Lets Some Pension Plans Cut Promised Benefits*, WASH. POST, Dec. 20, 2014 ("Congress has passed legislation permitting some pension plans to reduce benefits already being received by retirees.").
59. PIERSON, *supra* note 6, at 173-78, 206-14; cf. Henderson & Zahorsky, *Stagnation*, *supra* note 10; SUSSKIND, *supra* note 1.

they pay us, their law schools. The way out of debt for our students is through the training we give them.

As a steward of the legal profession, the legal academy should ensure that law students embark upon their careers equipped to handle the financial challenges they will face, not only for our students' sake, but also for the good of our profession. Perilous financial health of individual lawyers is a problem for the legal profession as a whole. Financial malfeasance—misapplication of client funds, inflation of expenses, padding of client bills—is one of the main reasons for licensure discipline nationwide,<sup>60</sup> and financial stress is one of the reasons for such malfeasance. The law school interval is the optimal time in the lives of lawyers to provide financial training. Otherwise, too many decisions have been made and too many doors closed. Because of the complex, difficult, and high-stakes financial decisions law students will face, they need to make informed decisions from the moment they enter law school.

## II. What Law Schools Are Doing

My quest to learn what U.S. law schools are doing to educate students about the economics of the legal profession, EQ, and personal financial management began at the University of Alabama as I endeavored to develop a course that would cover these topics. In 2013, the University of Alabama School of Law launched a new course, *The Business of Being a Lawyer* (BBL),<sup>61</sup> which is based on the premise that each lawyer should treat himself or herself as a business. BBL covers three topics: (1) the changing economics of the legal profession and resulting consequences for all lawyers;<sup>62</sup> (2) emotional intelligence (EQ) skills<sup>63</sup> relevant to the practice of law, such as using one's strengths,<sup>64</sup> managing

60. See, e.g., Martin Cole, *55 Ways to Lose Your License*, BENCH & BAR OF MINN. (Aug. 1, 2009), <http://mnbenchbar.com/2009/08/55-ways-to-lose-your-license/> (Personal financial hardship is also one of the reasons those in fiduciary positions, such as lawyers, turn to crimes of embezzlement and fraud); cf. Pamela H. Bucy, Elizabeth P. Formby, Marc S. Raspanti & Kathryn E. Rooney, *Why Do They Do It? The Motives, Mores and Character of White Collar Criminals*, 82 ST. JOHNS L. REV. 401 (2008).

61. The course materials for BBL are PAMELA BUCY PIERSON, *THE BUSINESS OF BEING A LAWYER*, *supra* note 6. In January 2016, fourteen fifty-minute video programs on *The Business of Being a Lawyer* were made available to other law schools, bar associations or other educational providers. See *The Business of Being a Lawyer*, CLE ALABAMA, Aug. 14, 2015, <https://clealabama.inreachce.com/Details?resultsPage=1&sortBy=&q=The+Business+of+Being+a+Lawyer&searchType=1&groupId=decef2fa-48ab-4a38-86f2-0d25291c04do>, <http://www.clealabama.com/>.

62. This section of the course builds on the work of Richard Susskind, William D. Henderson, Daniel Martin Katz, Conrad Johnson, Brian Donnelly, and William E. Hornsby, among others.

63. This portion of BBL is based upon neurobiology and psychology science and sources including CHARLES DUHIGG, *THE POWER OF HABIT: WHY WE DO WHAT WE DO IN LIFE AND BUSINESS*, xiv-xv 15, 21 (2012); DANIEL GILBERT, *STUMBLING ON HAPPINESS* (2006); MARTIN SELIGMAN, *LEARNED OPTIMISM* (2006); MARTIN SELIGMAN, *AUTHENTIC HAPPINESS: USING THE NEW POSITIVE PSYCHOLOGY TO REALIZE YOUR POTENTIAL FOR LASTING FULFILLMENT* 45-62 (2002).

64. As part of BBL, all students take Gallup Strengths Finder, a strength assessment. TOM

stress,<sup>65</sup> maintaining a balance in one's personal and professional life, and building resiliency; and (3) personal financial management.<sup>66</sup> Building on these topics, BBL discusses strategies to be an effective "free agent" throughout one's career.<sup>67</sup>

BBL class sessions include lecture, class discussions, panel presentations, and breakout groups.<sup>68</sup> Assignments include a personal management inventory; creating and following a personal budget; and, preparing personal career short-term and long-term "business" plans that focus on one's assets, liabilities, strengths, and weaknesses, as well as economic realities of various career paths. The BBL program includes a video library developed in 2014 and 2015 consisting of interviews with more than 100 lawyers and judges who discuss changes in the legal profession and how to adapt to these changes.<sup>69</sup> BBL has been approved as a CLE; thus, lawyers earning CLE credit sit alongside students in class sessions, participate with students in breakout sessions, and complete assignments.

To create the BBL course, I wanted to see what other law schools are doing to teach these topics. I conducted research in two ways: by surveying

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RATH, STRENGTHS FINDER 2.0 (2008).

65. PIERSON, *supra* note 6, at 60-66 (discussing the human biological response to stress; the impact of chronic stress; and characteristics of the "stress hardy," referring to data gathered in IRB # 14-OR-280, "Stress Hardiness in Law Students and Lawyers.") Studies of groups under stress typically show that some people are "stress hardy." These individuals have developed strategies and habits for dealing with stress so that they do not experience stress as intensely or unhealthily as the rest of us. These strategies and habits are identifiable and learnable. *See, e.g.,* Suzanne Kobasa, *Commitment and Coping in Stress Resistance Among Lawyers*, 42 J. PERSONALITY & SOC. PSYCHOL. 707, 707-17 (1982); Salvatore R. Maddi, *On Hardiness and Other Pathways to Resilience*, 60 AM. PSYCHOL. 261, 261-62 (2005); Salvatore R. Maddi, *Personal Hardiness as the Basis for Resilience*, HARDINESS: TURNING STRESSFUL CIRCUMSTANCES INTO RESILIENT GROWTH, 7, 7-17 (2013).
66. This portion of BBL builds on the theme in DAVID BROOKS, *THE SOCIAL ANIMAL* (2012). It introduces two hypothetical law students who fall in love, marry, and navigate forty years of the type of financial decisions that face attorneys and two-career families: living on a budget; strategies for paying off school loans; weighing financial consequences of various career paths; buying a vehicle and a home; the financial cost of having children and working less than full time; and savings and retirement decisions.
67. This portion of BBL, *How to Survive and Thrive in Today's Legal Market*, builds on the study by Robert E. Kelley of research scientists in the Bell Labs. KELLEY, *supra* note 39; Robert Kelley & Janet Caplan, *How Bell Labs Creates Star Performers*, 4 HARV. BUS. REV. 128-39 (July 1993). Kelley's study of what separates "star performer" brain-powered workers from "average performers" has not yet been applied to lawyers. It should be. As the legal profession undergoes dramatic changes, Kelley's study of "star performer" work strategies provides a road map for attorneys of the future. *See also* PIERSON, *supra* note 6, at 203-90. (discussing these strategies and how to apply them to law practice).
68. UNIV. OF ALA. SCH. OF LAW, *THE BUSINESS OF BEING A LAWYER*, *BBL FAQ*, <http://www.law.ua.edu/academics/the-business-of-being-a-lawyer/bbl-faq/> (last visited Mar. 31, 2015).
69. UNIV. OF ALA. SCH. OF LAW, *THE BUSINESS OF BEING A LAWYER*, *Interviewees*, <http://www.law.ua.edu/academics/the-business-of-being-a-lawyer/bbl-faq/> (last visited Mar. 31, 2015), <http://www.law.ua.edu/resources/BBLcourse/>.

all associate deans, and by analyzing the websites of all U.S. accredited law schools. I collected survey data between Oct. 6 and Nov. 7, 2014, by sending an email to the Associate Dean at each of the 202<sup>70</sup> accredited law schools in the United States. The email was brief, with six questions.<sup>71</sup> Ninety-one schools responded, for a response rate of forty-five percent. Respondents were prompt and generous with their time and information. All responses were collected through SurveyMonkey and were confidential and anonymous unless a respondent volunteered identifying information. I conducted a review of all law school websites between Dec. 1, 2014, and Dec. 1, 2015. Part A *infra* discusses the survey data. Part B *infra* profiles information about courses and programs at specific schools gathered from both the survey data and website research.

### A. Survey Data

As can be seen, more than half of the schools responding to my survey indicate that they cover economic trends in the legal profession, and most of these schools do so curricularly, through a wide variety of courses. The remaining schools that report coverage of economic trends do so through ancillary services, generally with programs or panel discussions featuring practitioners. About half of the schools responding to my survey indicate that they cover principles of emotional intelligence (EQ), and about half of these do so curricularly through a wide variety of courses. The remaining schools that cover EQ do so through ancillary services such as counseling or wellness programs. Less than half of schools responding to my survey indicate that they provide training or services on personal financial management. The schools

70. I sent the survey to all ABA-accredited law schools in the United States, as well as to the JAG. I did not include four law schools provisionally accredited by the ABA.

71. The survey consisted of the following questions:

(1) Does your law school offer courses/programs that address economic trends in the legal marketplace; how these trends impact the practice of law; and what current law students can do to prepare for the legal market of the future? (Topics such as: evolving business models for law firms; impact of technology on the practice of law; multi-disciplinary firms; influence of global and offshore business trends; outsourcing and contract lawyering).

(2) If yes, what is the name of the course/program and professor?

(3) Does your law school offer course/programs that address issues of emotional intelligence (EQ) that are relevant to the practice of law? (Topics such as: using one's strengths; handling stress effectively; maintaining resilience in the face of setbacks; improving one's interpersonal skills).

(4) If so, what is the name of the course/program and professor?

(5) Does your law school offer courses/programs that address personal financial planning as it relates to law students and the financial decisions they are likely to face? (Topics such as: establishing and living on a budget; educational loan repayment facts and strategies; the financial calculus of working part time; saving for a home purchase, children's education and retirement).

(6) If yes, what is the name of the course/program and professor?

that provide such coverage do so almost uniformly through ancillary services on school loan counseling.

1. Courses and Programs on Economic Trends in the Legal Profession

Eighty-nine of the ninety-one schools participating in the survey responded to the question:

Does your law school offer courses/programs that address economic trends in the legal marketplace; how these trends impact the practice of law; and what current law students can do to prepare for the legal market of the future? (Topics such as: evolving business models for law firms; impact of technology on the practice of law; multi-disciplinary firms; influence of global and offshore business trends; outsourcing and contract lawyering).

A little over half of responding law schools (54%) reported offering courses or programs about the economic trends in the legal profession; about one-fourth (26%) reported that they do not offer such coverage; and about one-fifth (18%) reported they would like to offer such courses or programs in the near future.<sup>72</sup>

Forty-eight schools reporting coverage on economic trends provided information about their relevant course, program, and/or professor or staff. Most of these law schools (about 80%) cover economic trends curricularly in a wide variety of courses devoted to other topics, most commonly courses on Law Office Practice or Law and Technology. A little less than 20% of responding schools provide coverage on economic trends through ancillary programs, such as panel discussions and symposia featuring practicing attorneys.<sup>73</sup>

72. Survey data to the question: Does your school offer courses/programs that cover economic trends in the legal profession?

Number of Schools	Percentage	Does Your School Offer Course(s) in Economic Trends in the Legal Profession?
48	53.93%	Yes
23	25.84%	No
16	17.97%	Would like to in near future
2	2.24%	Don't know

73. Survey data to the question: If your school covers economics of the legal profession, what is the name of the course/program?

Number of Schools	Percentage	Self-Reported Coverage
23	47.91%	Law Office Practice courses
10	20.83%	Wide variety of courses such as Predictive Analysis, Innovative Markets, Cross Border Transactions
8	16.66%	Ancillary programs
7	14.58%	Law and Technology courses



2. Courses and Programs on Emotional Intelligence (EQ)

Eighty-eight law schools responded to the question:

“Does your law school offer courses/programs that address issues of emotional intelligence (EQ) that are relevant to the practice of law? (Topics such as: using one’s strengths; handling stress effectively; maintaining resilience in the face of setbacks; improving one’s interpersonal skills).”

Almost half of responding schools (49%) reported offering courses or programs addressing emotional intelligence (EQ) skills; a little less than half (42%) reported that they do not offer such coverage; a small percentage reported they would like to in the near future (4%) or that they do not know if their schools cover EQ (5%).<sup>74</sup>

Forty-three schools reporting that they cover emotional intelligence (EQ) provided information about their relevant course, program and/or professor and staff. Over half of these schools (58%) provide EQ training curricularly, through doctrinal offerings or clinics. “Legal Professions” was the most commonly listed course coverage, although there are a wide variety of other courses. A little less than half of schools (42%) providing coverage on EQ do so through ancillary programs (such as wellness programs, academic support courses, career services programs, and state bar lawyer assistance programs).<sup>75</sup>

74. Survey data to the question: Does your school offer courses/programs that cover issues of emotional intelligence?

Number of Schools	Percentage	Does Your School Offer Course(s) in Emotional Intelligence (EQ)?
43	48.86%	Yes
37	42.04%	No
4	4.54%	Would like to in near future
4	4.54%	Don't know

75. Survey data to the question: If your school covers issues of emotional intelligence (EQ), what is the name of your course or program?

Number of Schools	Percentage	Self-Reported Coverage on EQ
18	41.86%	Ancillary programs
15	34.88%	Curricular (Doctrinal—Skills of Exceptional Lawyers, Quest for a Satisfying Career, etc.)
6	13.9%	Curricular (Clinic)
4	9.3%	Curricular (Doctrinal—Legal Professions courses)

### 3. Courses and Programs on Personal Financial Management

Eighty-four schools responded to the question:

Does your law school offer courses/programs that address personal financial management as it relates to law students and financial decisions they are likely to face? (Topics such as: establishing and living on a budget; educational loan repayment facts and strategies; the financial calculus of working part time; saving for a home purchase, children's education, and retirement).

About 40% of schools reported coverage of this topic; the remaining do not (54%), do not know if they offer such coverage (5%), or would like to in the near future (2%).<sup>76</sup>

Thirty-two schools that reported coverage of personal financial management provided information about their relevant course, program and/or professor or staff. Most of these schools (69%) provide coverage on personal financial management through ancillary programs such as financial aid counseling, student services, or outsourced debt counseling. About one-third of the schools providing information on personal financial management (31%) reported providing coverage curricularly, either through orientation programs or other doctrinal courses.<sup>77</sup>

### 4. Summary and Observations

Chart 1 below summarizes the above data. As can be seen, almost three-fourths of law schools in my survey reported that they cover economic trends (54%) or would like to in the near future (18%). Almost half of schools reported that they cover EQ skills (49%) or would like to provide such coverage in the near future (5%). Less than half of schools reported providing coverage of

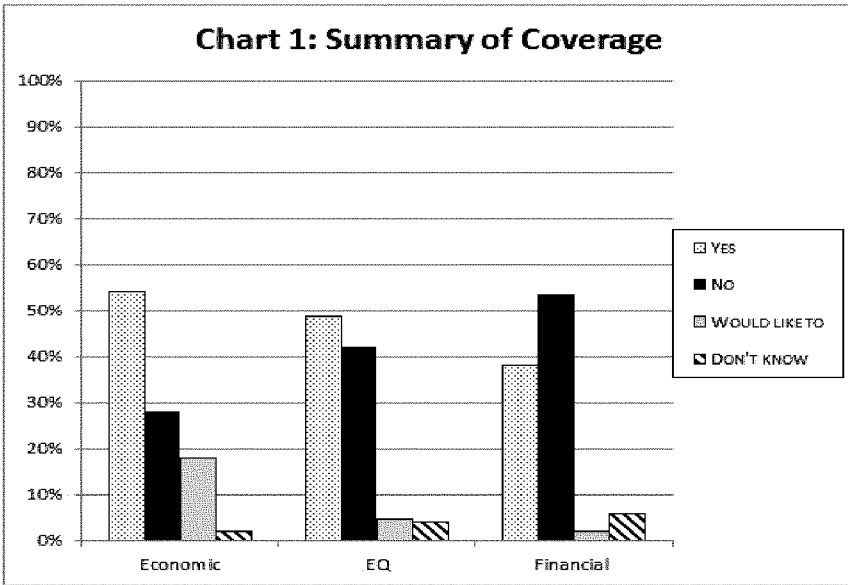
76. Survey data to the question: Does your school offer courses/programs that cover personal financial planning?

Number of Schools	Percentage	Does Your School Offer Courses or Programs in Personal Financial Planning?
32	38.09%	Yes
45	53.57%	No
2	2.38%	Would like to in near future
5	5.95%	Don't know

77. Survey data to the question: If your school covers personal financial planning, what is the name of the course/program?

Number of Schools	Percentage	Self-Reported Coverage
22	68.75%	Ancillary
6	18.75%	Curricular—variety
4	12.5%	Orientation programs that confer credit or are required

personal financial management (39%) or that they would like to provide such coverage in the near future (2%).<sup>78</sup>



*B. Research and Data Beyond the Survey*

Although helpful in providing a snapshot of what U.S. law schools are doing to address the topics of economic trends in the legal profession, EQ skills, and personal financial management, the survey data incorporate a number of limitations. The most obvious limitation is that while a response from ninety-one schools (45% return rate) is good, it is not complete; 101 U.S. law schools did not participate in the survey. Additionally, the survey data are self-reported and thus not likely to be representative of the full legal academy. Because of these limitations, I expanded my research by examining the Web pages of all U.S. accredited law schools. I did so between Dec. 1, 2014, and Dec. 1, 2015. I was able to access course and program descriptions, syllabi, mission statements, and testimonials. In many instances I was able to obtain further information through email correspondence with the faculty and staff of relevant programs and courses.

78. Summary of survey data: Law Schools' Coverage of Economic Trends, EQ, and Personal Financial Management:

Topic	Yes	No	Would Like To	Don't Know
Economic Trends	53.93% (48)	25.84% (23)	17.97% (16)	2.24% (2)
EQ	48.86% (43)	42.00% (37)	4.54% (4)	4.54% (4)
Personal Financial Management	38.09% (32)	53.57% (45)	2.38% (2)	5.95% (5)

This stage of my research produced a treasure trove of information about what schools are doing. Two facts became obvious that were not apparent from the survey data. The first is how *new* many of the courses and programs on these topics are. Digging into the Web page descriptions and the background of programs made clear that many schools have ventured into these topics quite recently, and many are currently developing courses and programs to cover them. The second fact that became clear from my website research is that these courses and programs appear to generate considerable excitement and enthusiasm, both from students and faculty.

The information below, which highlights specific programs and courses, includes both survey participants and my website research. I offer it not to profile every worthy program or course, but to show the range of programs, both curricular and ancillary, that seek to cover economic trends, EQ, and personal financial management.

#### 1. Courses and Programs on Economic Trends in the Legal Profession

For example, Maurer School of Law of Indiana University offers a four-hour credit course, *The Legal Profession*,<sup>79</sup> as part of its first-year curriculum, that “explores the economic and socio-legal structure and substance of the modern legal profession,”<sup>80</sup> as well as EQ issues. Other law schools have instituted somewhat similar, also mandatory, programs on the legal profession as part of their first-year curriculum. Thus, first-year students at the University of South Carolina School of Law begin their first semester with a required one-hour credit course, *Introduction to the Legal Profession*, that provides “an overview of the different roles in which lawyers serve and the different work environments in which lawyers are employed.”<sup>81</sup> Mercer University School of Law includes a three-hour credit course in the spring semester of the first-year curriculum, *The Legal Profession*, that explores lawyer professionalism and addresses “pressures the practice of law places on professionalism in different settings.” Michigan State University College of Law leads the pack with multiple offerings including a two-hour credit course, *Virtual Law Practice*, that looks at the ethics issues and best practices for “. . . virtual law practice, unbundling and alternative forms of technology-driven legal service delivery”;<sup>82</sup> a three-hour credit course, *Quantitative Analysis for Lawyers*, that addresses “legal automation and the technology infused law practice of

79. This program, one of the first of its kind, if not the first, was developed and is coordinated by William D. Henderson, Professor of Law and Van Nolan Faculty Fellow, Maurer School of Law, Indiana University.

80. INDIANA U., MAURER SCH. OF L., *Degrees & Courses: B614 The Legal Profession (for 1Ls)*, <http://apps.law.indiana.edu/degrees/courses/lookup.asp?course=258> (last visited Mar. 31, 2016).

81. U.S.C. SCH. L., 2015-2016 SCHOOL OF LAW BULLETIN, *Laws 500 - Introduction to the Legal Profession*, <http://bulletin.law.sc.edu/content.php?catoid=9&navoid=146> (last visited Mar. 31, 2016).

82. MICH. STATE U. COLL. L., ACADEMICS, *537G - Virtual Law Practice*, [http://www.law.msu.edu/academics/course\\_desc.php?cid=499](http://www.law.msu.edu/academics/course_desc.php?cid=499) (last visited Mar. 31, 2016).

the present (and not so distant future);”<sup>83</sup> and a one-hour credit course, 21<sup>st</sup> Century Law Practice, that “provides students with an overview of the practice challenges facing lawyers in the 21<sup>st</sup> century . . . .”<sup>84</sup> Supported by a grant from the Kauffman Foundation, Michigan State University College of Law offers students the opportunity to participate in ReInvent Law, “a law laboratory devoted to technology, innovation, and entrepreneurship.”<sup>85</sup>

Moritz College of Law, Ohio State University, offers a Business of Law course that turns to sources in “law, business, psychology, sociology, and other fields to analyze shifts in the market for legal services” and addresses in part the issue of self-regulation by the legal profession.<sup>86</sup> Stanford Law School offers a two-hour credit course, Twenty-First Century Professional Skills and Practice Management<sup>87</sup> in which students “create a comprehensive, personal plan outlining the substantive knowledge, professional skills, and business focus they need to build a fulfilling law practice.”<sup>88</sup> Wake Forest University School of Law offers a two-hour elective, The Business of Law and the Evolving Law Firm Environment,<sup>89</sup> that focuses on economic shapers of the legal profession, with a primary focus on private practice.<sup>90</sup>

A number of schools offer exciting curricula in law and technology.<sup>91</sup> For example, Chicago-Kent College of Law of the Illinois Institute of Technology

83. MICH. STATE U. COLL. L., ACADEMICS, 637E - *Quantitative Analysis for Lawyers*, [http://www.law.msu.edu/academics/course\\_desc.php?cid=455](http://www.law.msu.edu/academics/course_desc.php?cid=455) (last visited Mar. 31, 2016).
84. MICH. STATE U. COLL. L., ACADEMICS, 537G - *Virtual Law Practice* [http://www.law.msu.edu/academics/course\\_desc.php?cid=477](http://www.law.msu.edu/academics/course_desc.php?cid=477) (last visited Mar. 31, 2016).
85. Kent Love, *Michigan State Law Awarded Kauffman Foundation Grant for ReInvent Law Laboratory*, MICH. STATE U. COLL. L. (Aug. 28, 2012), <http://www.law.msu.edu/news/2012/kauffman-foundation-grant.html>. One program this laboratory offers is the “ReInvent Law Start-Up Competition, in which students . . . pitch innovative ideas for legal service delivery.” *Id.*
86. Taught by Professors Katrina Lee, Assistant Clinical Professor of Law, and Deborah Jones Merritt, John Deaver Drinko-Baker & Hostetler Chair in Law, <http://moritzlaw.osu.edu/academics/course-explorer/category/legal-profession-and-ethics/>.
87. STANFORD U. L. S., COURSE CATALOG, *21<sup>st</sup> Century Professional Skills and Practice Management*, <http://www.law.stanford.edu/courses/21st-Century-professional-skills-and-practice-manage> (last visited Mar. 31, 2016).
88. *Id.*
89. WAKE FOREST U. SCH. L., ACADEMICS, 66g, *The Business of Law and The Evolving Law Firm Environment*, <http://academics.law.wfu.edu/courses/?id=66g/?id=66g> (last visited Mar. 31, 2016).
90. Course syllabi and correspondence with Christopher Meazell, Professor of Legal Studies and Director of Law Graduate Programs. On file with author.
91. Richard Granat & Marc Lauritsen, *Teaching the Technology of Practice: The 10 Top Schools*, 40 L. PRAC. 44 (2014) (includes a survey of law schools and identifies the top ten schools offering technology and law courses: Brigham Young University J. Reuben Clark Law School; Chicago-Kent College of Law; Columbia Law School; Florida Coastal School of Law; Georgetown University Law Center; Hofstra University’s Maurice A. Deane School of Law; Michigan State University College of Law’s ReInvent Law Laboratory; University of Pittsburgh School of Law; Suffolk University Law School; Vermont Law School).

offers a three-hour elective, Public Interest Law Policy. This skills course builds on resources available through the Center for Access to Justice and Technology (CAJT),<sup>92</sup> “to build new computer interfaces for self-represented litigants” and with the Self-Help Web Center at the Cook County Courthouse, where law students assist self-represented litigants in using the technology tools developed at CAJT.<sup>93</sup>

## 2. Courses and Programs on Emotional Intelligence (EQ)

University of California, Berkeley (Boalt Hall), offers a three-hour elective, Skills of Exceptional Lawyers: Social Intelligence and the Human Dimension, that addresses the “growing body of applicable scientific, assessment and training tools” to help students have “better outcomes for themselves in their legal careers.”<sup>94</sup> Readings include research in “social intelligence, happiness studies, client management, conflict resolution and career development.”<sup>95</sup> The goal of this course is to provide students with “better outcomes for those they work with and for themselves.”<sup>96</sup>

Other law schools offer courses and programs devoted to leadership. The University of Chicago School of Law recently introduced a required program, LEAD (Kapnick Leadership Effectiveness and Development), that strives to train students “to have mature judgment, strong interpersonal dynamics, skill in using diverse resources, and a deep understanding of clients and judges. Self-assessment and teamwork . . . are at the core of these skills.”<sup>97</sup> A similar program has been launched at Texas A & M School of Law that includes a retreat for entering 1Ls, and workshops throughout the year that focus on developing “a healthy perspective on how being a lawyer fits into [one’s] overall life” and covering topics such as “mindfulness and strategies for balancing work/life obligations effectively.”<sup>98</sup> Stanford Law School offers a three-hour credit course, Law, Leadership and Social Change, that “examine[s] the responsibilities and challenges for those who occupy leadership roles and for those seeking to use law as a vehicle for social change.” Topics covered “include characteristics

92. Ronald W. Staudt, Professor of Law, Chicago-Kent College of Law, serves as Director of CAJT.

93. ILL. INST. TECH. CHI. KENT COLL. L., FACULTY, *Ronald W. Staudt*, <http://www.kentlaw.iit.edu/faculty/full-time-faculty/ronald-w-staudt> (last visited Mar. 31, 2016).

94. U.C. BERKELEY L., COURSES@BOALT, 243.6 - *Skills of Exceptional Lawyers-Social Intelligence and The Human Dimension*, <https://www.law.berkeley.edu/php-programs/courses/coursePage.php?CID=16995&termCode=B&termYear=2016> (last visited Mar. 31, 2016).

95. *Id.*

96. *Id.*

97. Marsha Ferziger Nagorsky, *The Kapnick Leadership Development Initiative: Translating a Successful Booth Class to the Law School*, THE RECORD (U. CHI.) (Fall 2013), <http://www.law.chicago.edu/alumni/magazine/fall13/kapnick>.

98. TEX. A&M U. SCH. L., ACADEMICS, *Professionalism & Leadership Program*, <https://law.tamu.edu/current-students/academics/centers-clinics-programs/professionalism-leadership-program> (last visited Mar. 31, 2016).

and styles of leadership, organizational dynamics, forms of influence, decision making, conflict management, innovation, diversity, ethical responsibilities, scandal, civil and human rights, and public interest law . . . ”<sup>99</sup> The University of Tennessee College of Law offers a similar two-hour credit course, *Lawyers and Leaders*, that draws upon Stanford Law Professor Deborah Rhode’s book, *LEADERSHIP: LAW, POLICY, AND MANAGEMENT*.<sup>100</sup>

Law schools are also offering courses on mindfulness.<sup>101</sup> For example, the University of Miami School of Law offers a three-hour credit course, “Mindful Ethics” which is part of the school’s “Mindfulness in Law Program.”<sup>102</sup> This course integrates mindfulness and professional responsibility by engaging “in the lives of two lawyers, Pedro Respono and Mindy Fuller, who travel through their careers on a road map illustrated in weekly vignettes that contain ethical speed bumps along the way.”<sup>103</sup> Students study “neuroscience and psycholog[y]” relevant to “decision making and how emotion may cloud one’s thinking” as well as participate in mindfulness exercises.<sup>104</sup> CUNY School of Law offers an elective course, “Contemplative Practice,”<sup>105</sup> that “includes a variety of practices to quiet the mind and draw one’s consciousness inward in order to better enable one to address the obstacles that inevitably occur in legal practice and in life.”<sup>106</sup> The University of Missouri at Kansas City (UMKC) School of Law offers a course, “The Quest for a Satisfying Career in Law,”<sup>107</sup> that explores “specific types of firms and work environments that are most likely to produce happy lawyers” and examines “studies from the fields of

99. STANFORD U. L. S., COURSE CATALOG, *Law, Leadership and Social Change*. This course is taught by Professor Deborah L. Rhode, Ernest W. McFarland Professor of Law, Director of the Center on the Legal Profession, and Director of the Program in Law and Social Entrepreneurship at Stanford University.

100. Deborah L. Rhode & Amanda K. Packel, *LEADERSHIP: LAW, POLICY, AND MANAGEMENT* (2011).

101. See Nathalie Martin, *Think Like a (Mindful) Lawyer: Incorporating Mindfulness, Professional Identity, and Emotional Intelligence into the First Year Law Curriculum*, 36 U. ARK. LITTLE ROCK L. REV. 413, 414 (2014) (“Meditation programs are now offered at twenty accredited law schools, and some states include meditation in continuing legal education programs on professionalism and ethics.”).

102. U. MIAMI SCH. L., ACADEMICS, *Mindfulness in Law Program*, <http://www.law.miami.edu/academics/mindfulness-in-law-program> (last visited Apr. 6, 2016).

103. Jan L. Jacobowitz, *Cultivating Professional Identity & Creating Community: a Tale of Two Innovations*, 36 U. ARK. LITTLE ROCK L. REV. 319, 326 (2014).

104. *Id.* at 327.

105. CITY U. N.Y. L. SCH., ACADEMICS: SPRING 2015 COURSE PACKET, *Contemplative Practice* 8, <http://www.law.cuny.edu/academics/courses/offerings/spring-2015-course-packet.pdf>.

106. *Id.*

107. U. MO. SCH. L. KANSAS CITY, *The Quest for a Satisfying Career in the Law*, <http://law2.umkc.edu/faculty/projects/ftrials/happylawyers/Questions.html> (last visited Apr. 5, 2016). The course is taught by Douglas O. Linder, the Elmer N. Powell Peer Professor of Law, and author, with Professor Nancy Levit, of *THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW*, *supra* note 14.

neuroscience and psychology” that suggest “steps that lawyers, law firms, and law schools can take to improve prospects for career satisfaction.”<sup>108</sup> Finally, The University of New Mexico School of Law incorporates mindfulness and emotional intelligence into its first-year mandatory professionalism course that includes “a stress relief segment . . . [to] . . . alert[] students to some of the personal risks of the profession, such as increased likelihood of alcoholism and depression” and offers instruction on “mindfulness for professionals, . . . positive psychology, . . . exercises on developing empathy, . . . classes on emotional intelligence, and . . . balance time.”<sup>109</sup> The University of Richmond School of Law offers a three-hour credit elective, “Mindfulness and the Legal Profession,” that uses creative writing and mindfulness meditation tools to “provide[] a framework for envisioning a professional identity that is in harmony with our personal, spiritual, and communal values.”<sup>110</sup>

### 3. Courses and Programs on Personal Financial Management

As noted in Part Two(A) *supra*, to the extent law schools offer programs or courses on personal financial management, most (sixty-nine percent) do so through ancillary programs that focus on educational debt management. The schools that reported curricular coverage do so in courses such as Accounting for Lawyers, Finance for Lawyers, and Financial Literacy. These courses generally are designed for students with no accounting background and focus on business finance basics such as reading and understanding company financial statements, financial ratios, time value of money, shareholder reports, market efficiency, methods of raising equity, and debt capital. They do not focus on personal financial management topics such as debt management, major purchases, or savings strategies for individuals.

In light of recent conclusions by the ABA Section of Legal Education and Admission to the Bar and the Task Force on Financing Legal Education, it is questionable whether what most law schools are currently doing meets law schools’ obligation under American Bar Association Standard 507 to provide adequate debt counseling to law students.<sup>111</sup>

108. U. MO. SCH. L. KANSAS CITY, *The Quest for a Satisfying Career in the Law*, *supra* note 107.

109. Martin, *supra* note 101, at 429-30.

110. U. RICHMOND SCH. L., ACADEMICS, *Mindfulness & The Legal Profession*, <http://law.richmond.edu/academics/curriculum/upper-level.html> (last visited Apr. 5, 2016). Mindfulness and the positive impact it can have on the life of lawyers and the practice of law is the focus of much recent literature and numerous resources. See, e.g., Richard C. Reuben, *Bringing Mindfulness into the Law School Classroom: A Personal Journey*, 61 J. LEGAL EDUC. 674 (2012); Rhonda V. Magee, *Educating Lawyers to Meditate?*, 79 UMKC L. REV. 535 (2010).

111. The American Bar Association Section of Legal Education and Admission to the Bar is the recognized accreditor of Juris Doctor programs in the United States. DENNIS ARCHER, CHAIR, AMER. BAR ASS’N TASK FORCE ON FINANCING LEGAL EDUCATION, REPORT OF THE TASK FORCE (Jun. 17, 2015), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_legal\\_education.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_legal_education.authcheckdam.pdf). ABA Standard 507 states: “A law school shall demonstrate reasonable steps to minimize student loan defaults, including provision of debt counseling at the inception of a student’s loan obligations and again



In 2015, after one year of study, the ABA Task Force on the Financing of Legal Education concluded that law schools need to do a better job of financial education.<sup>112</sup> Similarly, the ABA's Young Lawyer Section submitted a resolution to the ABA House of Delegates in 2015 encouraging law schools and bar associations to do more to help law students navigate the financial future they face.

The ABA Task Force stated: "Law schools don't prepare graduates for the financial realities they'll face when their student loans come due."<sup>113</sup> Noting that "[g]raduating from law school no longer provides the financial and career security that was once taken for granted in the legal profession," and that ". . . law students may lack expertise (and sometimes even a basic understanding) of how to develop the best strategy for managing their debt" the Task Force recommended that "law schools should strive to educate students on a variety of financial topics beginning as early as the offer of admission."<sup>114</sup>

This Task Force specifically found that ancillary programs on financial counseling offered by law schools are not adequate to meet the educational needs of law students about the financial facts they face. This failure is due in part to students who "do not always take advantage" of such programs, but also to the quality of service of these programs: Of those students who did use such counseling services, "around one-third . . . said they were unsatisfied or very unsatisfied with the services."<sup>115</sup>

The University of Alabama's course, The Business of Being a Lawyer (BBL), appears to be the only law school course that includes principles of personal financial management in curricular coverage. This coverage is provided in context of economic trends in the legal profession. BBL approaches the topic of personal financial management by following two hypothetical law students who meet, fall in love, marry, and navigate forty years of the typical financial decisions facing attorneys and two-career families, including the financial consequences of various career paths; establishing and living on a budget; strategies for paying off school loans and how those strategies are influenced

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before graduation." AMER. BAR ASS'N, *Standard 507: Student Loan Programs*, in STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2014-2015 34-35 (2014).

112. *Id.*

113. Karen Sloan, *ABA Tackles Law School Debt: House of Delegates to Vote on Helping Students Know What They're Getting Into*, NAT'L L. J., Aug. 3, 2015.

114. AMER. BAR ASS'N YOUNG LAWYERS DIVISION, REPORT OF THE HOUSE OF DELEGATES, *Resolution 106* (Mar. 2015), [http://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/council\\_reports\\_and\\_resolutions/March2015CouncilMaterials/2015\\_yld\\_resolution\\_106\\_re\\_debt\\_counseling.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/March2015CouncilMaterials/2015_yld_resolution_106_re_debt_counseling.authcheckdam.pdf).

115. ARCHER, *supra* note 111 at 34.

by economic trends in the profession and career choices; dealing with major life expenditures; working less than full time; and savings and retirement.<sup>116</sup>

Creating curricula on personal financial management for law students is challenging. Numbers and finances are boring to most, intimidating to some, and scary for many. Financial sophistication among law students varies considerably, and it is difficult to structure one course to meet all needs. Our approach in BBL seems to work pretty well. The personal financial management portion of the course has proved to be the favorite part of the course for many students. As one student commented:

For me, the most helpful session of class was on financial planning basics and how financial decisions affect one's career. Personally, I find financial planning to be one of the most daunting aspects of becoming a 'grown up.' . . . I will graduate law school with student loans and a mortgage and have no idea how to best situate myself within the economy and plan for my future.

116. For example, here is the budget Bob and Carol prepare to determine their household expenses:

Bob and Carol's Monthly Household Expenses

Expenses	
Rent payment	\$1,200
Utilities (water, power, cable/internet, trash, gas)	\$350
Food	\$500
Work clothes (khakis, shirts)	\$200
Phone	\$200
Gas	\$250
Emergencies	\$200
"Trivial money"	\$400
Gifts, entertainment	\$100
<b>Total Monthly Expenses</b>	<b>\$3,400</b>

Here is the savings plan Bob and Carol prepare for upon beginning their full-time jobs after law school graduation:

Bob and Carol's Savings Plan

Bob's net salary per month	\$2,913.17
Carol's net salary per month	\$4,494.34
<b>Combined net salary per month</b>	<b>\$7,407.50</b>
Combined estimated loan repayment per month	\$1,800.00
Insurance (auto, disability, life, rental)	\$1,000.00
Joint household expenses per month (rent, food)	\$3,400.00
Unforeseen expenses per month	\$300
Discretionary spending per month	\$400
Savings per month	\$507.50
<b>Total Monthly Expenses</b>	<b>\$7,407.50</b>

This class was the most interesting for me because it showed that I am not alone in these fears. It gave me wonderful things to consider when comparing job offers as well as provided me with the knowledge of what to look for in benefits packages and how best to save for my future.

Other students concurred that the course helped address the stress students feel over their school debt (“I really enjoyed the discussion we had in class, and in the book, regarding finances after law school. One of the biggest things I think law students worry about . . . is their financial situation in regard to loans and income after law school. I was very attentive during that lecture and I’m certain others were also.”) The course appeared useful even for students who have some financial knowledge (“The financial information was very beneficial. I have done a lot of my own research into trends in the legal market, so while I knew some of what was presented already, a lot of my classmates did not. For instance, the information regarding working for a government agency or public interest office with loan forgiveness was very excellent information.”)

### III. Evaluating What Law Schools Are Doing

Both the survey data and my website research revealed that, in varying degrees, schools depend on ancillary programs, rather than curricular coverage, to address the topics of economic trends in the legal profession, EQ skills, and personal financial management. As noted *supra*, about 17% of surveyed schools rely primarily on ancillary programs to address economic trends,<sup>117</sup> about 40% rely primarily on ancillary programs to address EQ skills,<sup>118</sup> and most (69%) rely primarily on ancillary programs to address personal financial management.<sup>119</sup> This section argues that ancillary services, while a common route, and often very beneficial, are not enough. It also argues that curricular commitment to the topics of economic trends in the legal profession, EQ, and personal financial management, when provided tangentially in courses devoted to other topics, is not enough to adequately present these topics or to meet law schools’ obligation to do so. Last, this section argues why law school—the entry point into the profession for new lawyers—affords the ideal opportunity for these topics to be addressed.

#### *A. Ancillary Services are a Common Route, but They Are Not Enough*

Ancillary services and programs are an essential part of the fabric of what law schools should provide to students. However, for three reasons, I suggest that ancillary services, however thorough, well-planned, and well-executed, are insufficient to cover the topics of economic trends, EQ, and personal financial management. While ancillary services may have been adequate in the past to provide coverage of these topics, the legal profession and the lives of law

117. See note 73 *supra*.

118. See note 75 *supra*.

119. See note 77 *supra*.

students have changed too dramatically in recent years for such programs to adequately meet the needs of today's law students.

Firstly, ancillary programs are inadequate to fully address these topics is that not all students will access ancillary services, however much they may need them. If students do utilize ancillary services, they may not ask the right questions or even know what questions to ask. Or, students may get wonderful assistance for the problem they have at the time, but not for future problems they will encounter.

Additionally, ancillary services are inadequate to fully address these topics is that ancillary services ebb and flow. The financial adviser who connects well with law students may move to another position. The experienced Dean of Students who guides students who are in distress may retire. Some panel discussions of economic trends may be more useful than others.

Finally, the reason that ancillary services are inadequate to fully address the topics of economics, EQ, and personal financial management is that there is no way of measuring how much students learn, or, frankly, to fully incentivize students to learn from ancillary services. Regardless of how important the information presented or how high the quality of the program, by the nature of what they are—ancillary—such services offer little accountability on what students learn and how they retain what is taught. There is no test and no grade. There are, in fact, disincentives in law school life to fully access ancillary services. Time spent partaking of career services programs or attending panel discussions by knowledgeable practitioners means less time for class preparation, studying, working, or relaxing. Students may be texting, cramming for their next class, or daydreaming through the most salient part of the program they attend. The students most in need of such services may be the most stressed, or have the least-developed time management skills. These students, the most in need, may be the least likely to access such services.

In short, because of the dynamics of law school life, ancillary services, while an important safety net, are not sufficient to deliver comprehensive information on rapidly evolving and complex topics such as economic trends in the legal profession, EQ, and personal financial management. Ancillary services are not designed to teach concepts and context. Ancillary services are provided piecemeal, and should be. Their flexible delivery method allows law schools to get services where, when, and to whom they are needed most. For all of these reasons, ancillary services are not the vehicle to deliver needed comprehensive information on complex topics to every law student.

### *B. Curricular Commitment: Is Tangential Coverage Enough?*

As noted in the survey data, about 80% of law schools reporting coverage of economic trends, about 60% of law schools reporting coverage of EQ, and about 17% of law schools reporting coverage of personal financial management provide such coverage curricularly,<sup>120</sup> but these topics are rarely the focus of the

120. See Chart 1 *supra*.

course. Rather, these topics generally are addressed tangentially in a course devoted to another subject such as legal profession, law office management, or clinic offerings.<sup>121</sup> My research of law school Web pages confirmed that often, curricular coverage of economic trends, EQ, and personal financial management is tangential to a course devoted to another topic.

While tangential coverage of economic trends, EQ, and personal financial management in courses devoted to other subjects can be a helpful way to introduce these topics, and almost certainly presents pedagogical benefits to the core subject matter, for three reasons I suggest that tangential coverage of these topics cannot adequately provide students with the tools they need to understand the economic forces that will shape the profession they are entering, the EQ skills essential to their success as lawyers, or the financial training they will need to navigate their finances. I also suggest that whenever possible, a single course that pulls together these three topics is the optimal approach.

The first reason a course devoted to economics, EQ, and personal financial management is the optimal way to present these topics is the message such curricular commitment sends about the importance of these topics. This is a message multiple constituencies of law schools need to see and hear. The first constituency is law students. Law students don't know what they need to know until we, their professors, tell them. A course devoted to these three topics and only these three topics signals the importance of these issues to students. The second constituency that needs to see and hear the message that law schools are addressing the issues of economic trends in the legal profession, EQ, and personal financial management is regulators, or would-be regulators, such as legislators who seek to replace the legal profession's tradition of self-policing. This group needs to see that law schools are providing future attorneys the tools they need to practice law ethically and professionally. The third constituency that needs to see that law schools are providing the tools of economics, EQ, and finance to law students is the practicing bar. These attorneys can learn from us, and we from them. Because of their hands-on nature, the topics of economics, EQ, and finance provide ripe opportunities for synergy between the practicing bar, alumni, and the legal academy.

The second reason law schools should address the topics of economic trends, EQ, and personal financial management curricularly is that they are complex issues. Although some law students may piece together information about these topics from tangential course coverage, ancillary services, or intern and work experience, doing so is hard, even for the most sophisticated student. To understand the economic forces shaping the legal profession, students need to connect the dots, see the patterns, understand cause and effect, and develop an intuition that will allow them to see future trends as they unfold.

To take one example: In 1977, the United States Supreme Court held that the First Amendment prevents bar associations from banning lawyer

121. See *supra* notes 73, 75 & 77.

advertising.<sup>122</sup> The unintended impact of this decision on law firms has been astounding. Today, every firm, even if it eschews advertising, is forced, if it wants clients, to disclose firm metrics on billing practices, expenses, success rates, and resolution time lines. Transparency of this information has led, in turn, to increased competition among law firms for clients, and this competition has contributed to changes that could never have been anticipated in how law firms operate and how lawyers live.

To take another example: Advances in technology have led to the commoditization of many legal specialties, which, in turn, has contributed to the disparities in the profitability of practice areas; an emphasis on lateral hiring; changes in law firm compensation structures and staffing models; increased instability in the private practice of law; a spike in law firm mergers, acquisitions and dissolutions; 24/7 access; and quality-of-life challenges posed by all of these changes.

The point is causes and effects exist in understanding economic influences within the legal profession, the lives of lawyers, and the decisions law students are and will be making for the rest of their careers. Many of these causes and effects are unintended consequences that could be anticipated and planned for with adequate awareness and training. Students need to understand the *why* behind the changes in our profession, not just the *what*. Only curricular commitment, taught by law faculty, can adequately address this level of complexity.

The topics of economic trends, EQ, and personal financial management are not only complex, but interrelated. Lawyers of the future will be “free agents” throughout their careers, changing jobs multiple times, and constantly having to demonstrate the value they add to a firm and to its clients. To be an effective free agent will require all three tools: an understanding of the economic topography of the legal profession, good EQ skills, and financial management savvy. All lawyers of the future will need to understand the economic trends of the legal profession. Lawyers will need “internal” EQ skills to deal with the tempest of law practice and self-management in the midst of constant change. Because they are likely to change jobs through their careers, lawyers will need the ability to know their strengths and to seek positions that call upon their strengths. A tumultuous career path, which all lawyers are more likely to experience in the legal world ahead, presents opportunities and perils. Both require an ability to maintain balance and manage stress. As technology normalizes remote lawyering, lawyers will need well-developed “external skills” of teamwork, empathy and collegiality. A profession experiencing dramatic changes will necessitate informed and educated personal financial management. Financial security will be possible only if one has personal financial management skills and knowledge. Again, only curricular coverage, and, ideally, in one course, taught by law faculty, can adequately connect the dots of economic trends, EQ, and personal financial management.

122. *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977).

Of course, law schools should address the topics of economic trends, EQ, and personal financial management curricularly is that they provide new and exciting opportunities for pedagogy. Learning anything is always more fun when it applies to the learner. As we all know, students become excited whenever topics we cover pertain to them, whether involving property law (*their* dispute with a landlord), business law (*their* encounter with an online seller), or criminal law (*their* or their friend's brush with the criminal justice system). Imagine how much students would enjoy using the critical thinking skills they are learning in law school to analyze themselves, their career plans, their finances.

To master the tools of economic trends, EQ, and personal financial management requires an understanding of the concepts students are learning throughout law school. Commercial and business law is at the heart of understanding the economic trends in the legal market. Professional responsibility issues of competency, conflicts of interest, and attorney-client privilege are necessary to see how changes in the legal marketplace threaten the professionalism of law practice, and what can be done to maintain the integrity of our profession in light of these threats. Critical thought analysis is needed to apply the science of emotional intelligence to oneself and the challenges a professional career poses for good EQ. The ability to process and organize multiple concepts and apply them to concrete situations is needed to plan one's personal finances in a complicated world. In short, the topics of economic trends in the legal profession, EQ, and training in personal finance are wonderful vehicles for teaching the critical analysis skills legal education traditionally has provided.

*C. Why Law Schools Are the Appropriate Point at Which to Provide the Tools of Economic Trends, EQ, and Financial Management*

Even if we all agree that law students and lawyers need an understanding of the economic trends in the legal profession, EQ, and training in personal financial management, the question remains: Why should law schools teach these topics? I suggest three reasons.

The first reason is practical. Realistically, the law school years offer the only timely opportunity for the lawyers of tomorrow to get the training they need in these three topics in time to affect decisions they must make. Continuing Legal Education (CLE) courses may appear to be the optimal career point to address such topics, since students, once in practice, will have a greater ability to see the need for these topics and be better able to place these topics in the context of their lives, but CLE coverage is not adequate. It is too little, and too late. Law students need information about economic trends, EQ, and personal financial management from the moment they enter law school. Too many decisions have been made by the time they may take a CLE course addressing these issues. Many attorneys will never take a CLE course on these topics. The quality of CLE programs varies. Some CLE courses will provide outstanding coverage of these topics, and others will not. The topics of economic trends,

EQ, and personal financial management are complex and interrelated. A brief CLE program cannot address these topics in the depth needed.

The second reason law schools should cover economic trends, EQ, and personal financial management is moral. Law schools have been given a monopoly on educating future lawyers. Law schools represent to students and to their families that we will provide students with the training they need to practice law. We represent to the profession, to the public, and to those who regulate the legal profession—or seek to regulate the legal profession—that we are adequately preparing students to sit for bar examinations and represent clients. Without providing today’s law students an understanding of economic trends in the legal profession, EQ, skills relevant to law practice, and personal financial management, we are not meeting our obligation.

Additionally, law schools are also “base training” for the future leaders of the legal profession. Our profession will need good and wise leaders to guide it through the challenges ahead. These leaders cannot be wise if they are not prepared. Law schools are abdicating the obligation to the legal profession to train its future leaders if we do not provide these three tools.

Finally, law schools should provide coverage of these topics is that we can, and we are uniquely qualified to do so. Granted, most of us are not trained in economics, psychology, or finance, but many of us are. Moreover, all of us are trained in how to think and how to learn. We are hired as law faculty because of our ability to see big-picture issues. We are given time and resources to research, redesign our courses, and develop effective teaching techniques. Unlike practicing lawyers who have to respond to day-to-day needs of clients, we have the opportunity to step back and reflect on how the legal profession is changing and what should be done to respond. Unlike bar associations, which are tasked with regulation and repair of the harm caused by lawyers who cross the line, we have the opportunity to prevent the harm by the education we provide.

Law faculties have a long tradition of designing law school curricula to meet the challenges of a changing profession. Early legal education consisted of the case method. As law and society changed and it became clear that this educational approach was inadequate, law schools adjusted and created problem-teaching methods, experiential education, clinics, externships, document-drafting classes, and simulation courses that focus on application of facts to real-world problems.<sup>123</sup> It is our tradition as an academy to evolve legal education as needed to provide the tools necessitated by the changing legal profession. We are able to further this tradition with our robust legal community. Law professors and law schools pool our knowledge through

123. See, e.g., Blake D. Morant, *Benefits from Challenge: The Continual Evolution of American Legal Education*, 64 J. LEGAL EDUC. 523 (2015) (address delivered Jan. 4, 2015); Luke Bierman, *Four Steps for Reinventing Legal Education*, A.B.A. J., (Apr. 15, 2015, 2:15 PM), [http://www.abajournal.com/legalrebels/article/four\\_steps\\_for\\_reinventing\\_legal\\_education](http://www.abajournal.com/legalrebels/article/four_steps_for_reinventing_legal_education); Alfred S. Konefsky & Barry Sullivan, *In This, The Winter of Our Discontent: Legal Practice, Legal Education, and the Culture of Distrust*, 62 BUFF. L. REV. 659 (2014).



conferences, publications, blogs, teaching visits, and professional societies. We learn from one another. In short, law schools are the perfect incubators to develop the tools needed by the lawyers of the twenty-first century.

### Conclusion

This article has suggested that three topics not traditionally covered in legal education are now essential if the legal academy is to adequately prepare tomorrow's lawyers: (1) an understanding of the economic factors that shape the legal profession; (2) principles of emotional intelligence (EQ) relevant to the practice of law, such as using one's strengths, managing stress, maintaining balance in one's personal and professional life, and developing resiliency for life's challenges; and (3) training in personal financial management to adequately steer a career that is characterized by constant change and, for many, begins with significant debt.

This article has offered suggestions on how these topics may be included in law school education. These suggestions are based upon data gathered through research of all U.S. accredited law schools during 2014 and 2015. The data are exciting. They show law schools building these tools in imaginative ways that resonate with students, present opportunities for collaborative endeavors within the legal academy, and build additional bridges with the practicing bar. Specifically, this article suggests that the legal academy:

- **Give students three new tools.** Because of the dramatic recent changes in the legal profession, the tools law schools need to provide to all law students are: (1) an understanding of the economic forces shaping the legal profession and specific strategies for dealing with the legal marketplace of the future; (2) training that strengthens the emotional intelligence skills needed in the practice of law; and (3) education in personal financial management. Ancillary programs and services on these topics are important, but are insufficient to fully address these topics. Curricular commitment, ideally in one course that integrates all three topics, is the optimal vehicle to provide these tools.
- **Increase dialog.** Although there has been much attention within the legal academy to the changing legal profession and what legal education should do to address the changes, few systemic data have been collected thus far on these efforts. Courses, ancillary programs, and other efforts at law schools are categorized differently and exist in various degrees of completeness. More symposia, institutes, and other collaborative efforts on the topics herein would provide the needed opportunities to pool knowledge, share efforts, build the tools and systematically gather data on nationwide efforts.
- **Involve the Bar.** Curricular commitment should involve the practicing bar not only as speakers, panelists, or breakout leaders, but also as

attendees. Law schools should seek CLE accreditation for law school courses devoted to these topics. Doing so places practicing lawyers next to law students in the classroom, enabling all to participate together in class discussions, breakout sessions, and class exercises.

- **Build Outcome Assessments.** Rigorous outcome assessments are needed to ensure that we are effectively teaching these tools. Assessments should measure whether course goals are met; whether students are provided with what they need to know in these three areas; and how the tools should continue to evolve as the profession undergoes more changes.<sup>124</sup>

The legal profession is in a state of creative destruction.<sup>125</sup> Peril lies ahead, but so do exciting opportunities. It is our job, and our privilege as legal educators, to teach our students about these opportunities.

124. AMERICAN BAR ASS'N, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2014-2015 (2014). *See* Standards 301, 302, 314, 315.

125. "Creative destruction," coined by the economist Joseph Schumpeter, refers to the "process of . . . mutation that incessantly revolutionizes the economic structure from within, incessantly destroying the old one, incessantly creating a new one." JOSEPH SCHUMPETER, CAPITALISM, SOCIALISM AND DEMOCRACY 82-83 (1944).