

THE RECORDER

VIEWPOINT

THE RECORDER | WWW.THERECORDER.COM

Too many lawyers? Too many law schools

Richard Zitrin

It's been more than a decade since *The Recorder's* parent company ALM published the last Moral Compass column. Time flies by when you're having fun — or buried in trial. Now, having caught my breath, I'm ready to resume giving my two cents on the legal issues of the day.

Much has changed in 11 years. Back then, the Nasdaq had just hit 5,000, the world was at peace (relatively speaking), and the legal profession was booming. Then in short order came the



dot-com bust, the devastation of 9/11, three wars in the Middle East and today's deep recession.

But with our tough economic times, much of the legal world looks like déjà vu all over again. "It was only a decade ago that we were in a recession," we wrote in February 2000 as the stock market peaked. Back then (the early 1990s), "litigation associates were unceremoniously dumped by fickle law firms that simply had no more use for them. ... With the rise of the stock market and the reign of Silicon Valley, IP lawyers are now the favored sons and daughters. But for how long?"

Not long at all, we wrote: "While the parade of large firms jumping off the salary cliff like lemmings continues, those who are likely to crash on the rocks below are not the managing partners and chairmen, but the disposable commodities — the associates. Today's expensive rookie free agents may be tomorrow's castaways."

Somehow, though, most big firms never saw this coming. One recruiting partner we quoted back in 2000 was typical: "The demand for legal talent is

huge, and we want to continue to attract top-tier associates and pay whatever the market is." Meanwhile, Tower Snow Jr. had just installed 2,400 (!!!) hours as the top billing increment at Brobeck, Phleger & Harrison. Not long after, salaries had shrunk, law firms were imploding and Brobeck was in bankruptcy.

This time, the issues may have less to do with today's law firms than law schools themselves. No one is saying "the demand for legal talent is huge." Instead, many are asking, "Does our country really need another 50,000 law-

Unlike the bottom-line law firm businesses that have tightened their belts in tough economic times, law schools have no such incentive. Why? Because law schools make money — lots of money. Or as *The New York Times* put it in a recent article, 'Ka-Ching!'

yers a year?" Some of my Hastings students, even those in the top quarter of the class, are finding that *summer associate* positions are hard to come by. Full-time offers? Good luck! Law firms that laid off junior associates a decade ago are now restricting initial offers or hiring "deferred associates," i.e., "go volunteer for a year and then we'll give you a job."

Yet the glut of law schools, and law students, continues. In 2000-2001 there were about 180 ABA accredited law schools and 37,910 new grads. Now, the next ABA-accredited school will be the 200th, and the number of law school graduates is just a touch under 50,000 — a 31 percent increase in a society al-

ready super-saturated with lawyers.

Where are all these newbies going? Not to our decimated public interest firms or legal aid. Not to state and municipal law departments, many of which are operating on survival budgets. Not to our big firms, now circling in a holding pattern. Many *volunteer* jobs, such as doing preliminary hearings at the public defender's office, are now difficult to find.

Unlike the bottom-line law firm businesses that have tightened their belts in tough economic times, law schools have no such incentive. Why? Because law schools *make money* — lots of money. Or as *The New York Times* put it in a recent front-page article in its Sunday *business* section, "Ka-Ching!"

Statistics lie, so it's hard to determine exactly how bloated the profession is. Are law grads really making median starting salaries of \$160,000, as some claim, or is it more like \$40,000? Are 90 percent of law grads employed nine months after graduating, as some claim, or are 40 percent employed in the law while the rest work at local bookstores or Domino's Pizza for \$10 an hour?

These few observations:

- Law schools increasingly send out brochures trolling for students, in a manner reminiscent of those late-night TV ads for technical schools "certain" to lead to a job.

- New law schools, especially increasingly common stand-alone institutions, have seen the light, and it's a for-profit business model. Even in more traditional institutions, it's frequently the law schools that make money that help offset the costs of undergraduate programs.

- Law schools are not increasing class sizes out of altruistic motives, since it is obvious that more law students mean *fewer* jobs per graduate. Dramatically increasing class size makes for huge economies of scale. So if New York Law School — a stand-alone that was the focus of the *Times* article and according to one recent survey the fourth most expensive in the country — increases the size of its lecture courses to 100 stu-

See ZITRIN page 12

Richard Zitrin is lecturer in law at Hastings and of counsel to San Francisco's Carlson, Calladine & Peterson. He is the lead author of three books on legal ethics, including "The Moral Compass of the American Lawyer."

THE RECORDER

ZITRIN

Continued from page 6

dents from 80, the cost is essentially the same but there's 25 percent more profit.

Unfortunately, I'm short on solutions, other than railing against the problem in this column. So long as prospective law students are seduced by that prestigious J.D. degree and the easy availability of loans, there will be some willing to run the risk of waking up at the end of three years with a six-figure nondischargeable student loan debt and no job. And while the ABA certifies law schools — already

considered controversial by many academicians — the chances of it wading into the "too many/too big" debate are slim, fat or none.

The "best" solutions I can think are either facetious or altruistic. Facetious? In 1983, columnist Russell Baker suggested that we export lawyers to Japan, which had a shortage of lawyers, in return for cars. Today, we have the cars but Japan is still short on lawyers. Japan, though, where there were *no* law schools a decade ago, is catching up: more than 60 new law schools and a solid developing legal education system. So exporting our law students is out.

Altruistic? Let's have a new government stimulus package that includes hiring new law grads at \$30,000 a year to represent the underrepresented — the 90 percent of the people who, to paraphrase Jimmy Carter, are represented by only 10 percent of the lawyers. Puerto Rico has a surplus of lawyers and as a result legal services there are thriving. All we have to do is persuade Congress ...

Which leaves me with little else other than to implore law schools to do the right thing — the same thing lawyers are required to do for their clients: "Hey, you, Law School! Do you have the right

to exist just to make money? Don't you have a fiduciary duty to put the needs of your students first? If you are not serving your students as much as making money off them, do you have a legitimate purpose? And hey, what about truth in advertising? Shouldn't you have to tell your newbies the amount of debt they'll wind up with and the true odds against them? Think about it ..."

Let's hope they do. Because otherwise the glut of grads is likely to continue.

The Recorder welcomes submissions to Viewpoint. Contact Sheela Kamath at skamath@alm.com.