

Perspective

A publication of the Young Lawyers Section
of the New York State Bar Association

A Message from the Section Chair

Dear Young Lawyers Section member:

Welcome to the new-est edition of *Perspective*—the printed publication of the NYSBA Young Lawyers Section (YLS)! When you read this, we will have just finished the 2012-2013 Term of the YLS, and we will be at the start of the 2013-2014 Term—our 75th Anniversary Year! This past year was an exciting one to serve as your Section Chair. YLS ran numerous programs, all with social, educational and networking opportunities. Although it seems like ages ago now, our first formal program of the 2012-2013 Term was the Supreme Court Admissions Program, held in Washington, D.C., June 10-11, 2012. General William K. Suter, 19th Clerk of the U.S. Supreme Court, was our keynote speaker at the Sunday dinner, and NYSBA President Seymour James, Esq. moved the admission of our admittees before the Court. After the admission ceremony, we were honored to have Justice Ruth Bader Ginsburg and Justice Sonia Sotomayor spend time speaking with



our group in the Courthouse's East Conference Room.

On October 18-19, 2012 we held the YLS Fall Meeting and CLE Program in Albany. Lisa R. Schoenfeld, Esq., our Chair-Elect, was the Program Chair and she organized a terrific two-day event that included an Executive Committee meeting, full-day CLE program, tour of the New York State Capitol Building (including the Assembly and Senate Chambers), and a dinner at the famous Albany restaurant Jack's Oyster House.

January 2013 rang in the New Year, and brought with it the New York State Bar Association (NYSBA) Annual Meeting. From January 21-26, 2013, attorneys from across the State and around the world met in New York City to address the legal issues of the day, attend numerous CLE programs,

socialize at many different events, and conduct Association business at the House of Delegates Meeting and Annual Meeting of the Association. On January 23-25, YLS held numerous events of its own as part of Annual Meeting, including a half-day CLE chaired by Erica M. Hines, Esq., the annual two-day Bridge the Gap program co-chaired by Erin Flynn, Esq. and Alena Shautsova, Esq., and the Section's Annual Executive Committee meeting at which the Officers



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and Executive Committee members for the 2013-2014 Term were elected. YLS also presented the Annual Outstanding Young Lawyer Award to James M. ("Jimmy") Paulino II, Esq. from Rochester.

Later in the year, the Fourth Annual Young Lawyers Section Trial Academy was held at Cornell Law School in Ithaca, New York on March 20-24, 2013. The Trial Academy is designed to provide opportunities for inexperienced attorneys to become familiar with the courtroom, its procedures and decorum, as well as trial practice and skills. The Academy teaches hands-on practice of trying cases, including *voir dire*, opening statements, direct and cross examinations, and closing arguments. Experienced practitioners and judges from across the State share their expertise as lecturers and faculty members. We fully expect to hold the Fifth Annual Trial Academy in March 2014, so please mark your calendars now and keep your eyes open for more details!

Finally, as the calendar comes full circle, the YLS is again in Washington D.C. in June 2013, for our now-annual United States Supreme Court Admissions Program.

Since 2013-2014 is also the Young Lawyers Section's 75th Anniversary Year, plans are under way for an exciting anniversary celebration—sometime in the summer of 2013.

I am pleased to announce that by the close of the 2012-2013 Term on May 31, 2013, there were no vacancies on the YLS Executive Committee, and we had a very active Executive Committee. Going forward in the 2013-2014 Term, if you have an interest in an Executive Committee vacancy, or a position on one of the YLS Committees, please contact Lisa R. Schoenfeld, the incoming Section Chair, any of the other YLS Officers, or our Section Staff Liaison Tiffany Bardwell.

Our Section publications, *Electronically In Touch* and *Perspective*,



Outstanding Young Lawyer Award presented to James M. ("Jimmy") Paulino II, Esq. from Rochester

are always in need of great articles. Please consider drafting a submission for either or both. All of our District Representatives, Committee Chairs and Section Liaisons should submit at least one article during the course of their 2013-2014 term, concerning a substantive legal issue, or a program or event. But we also welcome articles from our general YLS membership, as well as from non-YLS attorneys.

One of the initiatives this year was to amend the Section's By-Laws so they would be updated, and to resolve internal inconsistencies. The YLS By-Laws Committee was chaired by our Treasurer, Sarah Gold, Esq., and through great effort by Sarah and others we have current and updated Section By-Laws.

A second big initiative was the creation of a YLS Civics Poster/Essay Contest—one answer to the call of the ABA and NYSBA for encouragement of better civics knowledge and education for our students and citizenry. A Special Committee of YLS was charged with developing, organizing and running the contest. For the start, only several Judicial Districts across the State were involved. The contest was open to high school students studying U.S. History and Government, with monetary prizes for the top three essays and the top three posters in the State. YLS was fortunate to have anonymous donors who pledged financial support for the program. The Co-Chairs of the

Civics Prize Special Committee are Erica M. Hines, Esq., YLS 4th District Co-Representative and 2013-2014 Section Secretary, and Michele L. Babcock, Esq., YLS 9th District Co-Representative. As of the time I am writing this Message in March, our goal will be to have the submissions received and judged, with award announcements ready, before YLS' 75th Anniversary celebration this summer 2013.

Finally, another initiative was to increase our Section membership beyond that of the very successful Chair year of James Barnes, Esq., one year earlier. The goal was to increase membership not only beyond 4,000 members, but to reach 5,000 members or more. On June 1, 2012, YLS was the fourth largest Section of the State Bar out of 25 Sections, and we numbered approximately 4,000 members. Through a series of membership initiatives and the hard work of many, approximately 1,000+ new members have joined YLS over the past year! At the time of this writing, in March 2013, YLS members numbered 5,000, and we reached our goal! In addition, as of this writing, YLS regained the top spot in Section membership! YLS repeatedly ran neck-and-neck with the Trusts and Estates Law Section for the position of largest Section of the State Bar Association. In fact, in addition to March 2013, YLS was, at several other times over the past year, the largest Section of the State Bar! Thank you to everyone who assisted in reaching this goal—particularly our new YLS members. The more members YLS has, the more benefit there is for our membership, in terms of programming, professional development, and social networking.

It is now time for me to say goodbye as Section Chair. It is absolutely amazing to me how quickly this year went. Right from June 1, we undertook what we knew would be a very ambitious agenda. My fellow Officers were terrific colleagues,

and we all worked together, along with our Immediate Past Chair James Barnes and our Executive Committee, for the best interests of the Section. As we go to press, prior to the completion of the Term on June 1, we are pleased to say that we are well on the way to accomplishing the goals we set for this year. The Section is in great hands with new Chair, Lisa Schoenfeld, and the other Officers—Sarah Gold, Chair-Elect; Jason Clark, Treasurer; and Erica Hines, Secretary. I thank them for their partnership, input and friendship as we addressed numerous matters, both big and small, this past year. Finally, no list of thank-yous would be complete without including the NYSBA Staff—who are second-to-none. Tiffany Bardwell is our tireless Section Staff Liaison, who has also become a great friend. Without her knowledge and assistance the Section would not have been able to successfully complete our goals this year. The same is true of Megan O'Toole, our past Staff Liaison and the current Manager of Membership Services for NYSBA. Megan and her colleagues in the Membership and Meetings Departments—Kathy Heider and Adriana Favreau—were invaluable in their assistance with our Annual Meeting and Trial Academy programs. My thanks to them, and all of the NYSBA Staff who help make our programs run smoothly and successfully.

It has been an honor and a privilege to serve as your Section Chair this past year, and I thank you for having afforded me the opportunity to do so. I wish the Section continued success in the years to come.

Sincerely,

Michael L. Fox, Esq.
Section Chair, June 2012-June 2013
Jacobowitz & Gubits, LLP

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Law Schools Adapting to a Changing Climate

By Michael Peter Gerrity

By now, no one in the legal industry should be surprised to learn that the number of law school applications has been declining. What most practitioners may not be aware of, however, are the steps some law schools are taking to overcome this downturn. This article seeks to identify factors contributing to the downturn in applications, and discusses efforts by New York and New Jersey law schools to address this concern.

Background

As of March 1, 2013, the Law School Admissions Council reported that 44,630 applicants had submitted their fall 2013 applications.¹ This represented a 19.7% decline from the previous year. Should 2013 application rates continue to fall at this precipitous rate, dramatic changes will affect the legal education landscape, ranging from changes in educational priorities to the potential closure of lower-ranked law schools.

Total application levels have not been this low in 30 years. In an interview with the *National Law Journal*, Ohio State Law Professor Deborah Jones Merritt described her concern over the shrinking applicant pool. Although records prior to 1983 could not be located, Professor Merritt found that at no time in the past thirty years had the number of law schools applicants totaled less than 60,000.²

The main cause of the decline in applications is prospective students' reluctance to take on a large amount of debt in a declining legal job market. Easy access to information and the rise of the "Internet lawyer" have caused traditional legal jobs to suffer the same fate as other knowledge-based professions.³ The Internet makes research more efficient, requiring fewer billable hours, working at-torneys and office space. Additionally, companies are offering legal forms online at affordable rates. Although

these "fill in the blank" legal forms are no replacement for a tailored instrument, this may not be enough to persuade the cost-conscious consumer. As a result, some traditional attorney roles are being downsized or outsourced. With shrinking job opportunities, prospective students are making calculated decisions to pursue other career paths.

Issues Specific to New York and New Jersey Schools

Further, the Northeast faces unique issues contributing to the decline in law school applicants. For example, Rutgers Law located in Camden, New Jersey (Rutgers-Camden) took a blow to its applications for the 2015 graduating class after proposing a merger with Rowan University, also in New Jersey. After the proposed merger was revealed to the public on January 25, 2012, Dean Rayman L. Solomon of Rutgers-Camden stated, "Applications to our law school decreased dramatically and accepted students began withdrawing. Most prospective students were understandably unwilling to take the risk of enrolling in a law school whose future was so uncertain."⁴ Students, faculty and alumni strongly opposed the merger, and although the law school ultimately did not merge with Rowan, applications fell 27% regardless.⁵ This resulted in a graduating class of 110 students in 2015, about half the size of the typical Rutgers-Camden class size.

Other issues seem to be more widespread. The cost of living in New York City exacerbates the already expensive cost of law school attendance, a national concern amongst prospective law students. Inclusive of room and board, a year at a New York City law school can exceed \$80,000.⁶

Of the 2012 *National Law Journal's* (NLJ) Top 50 Go-To Law Schools, New York law schools consistently

rank as the most expensive.⁷ Cornell Law and Columbia Law are numbers one and two on the list, costing \$53,226 and \$52,902 respectively. NYU Law ranks seventh at \$50,336, Fordham Law ranks 12th at \$47,986, and Seton Hall Law ranks 15th at \$46,840. Finally, Rutgers-Camden ranks 45th at a cost of \$24,094 per year. Despite the already high cost, tuition has been increasing each year with state schools seeing a larger percentage increase than private law schools.⁸ Although the dollar amount of internal grants and scholarships also increase each year,⁹ the increase in tuition consistently eclipses the amount of internal grants and tuition awarded. Thus, those students receiving a partial scholarship may not be receiving enough financial aid to account for the prior year's inflation. Furthermore, renewable scholarships decrease in net value during the second and third years of law school. Undoubtedly, rising costs make the choice to attend law school a significant financial commitment, especially when considering New York and New Jersey law schools.

Job prospects are also of great concern to prospective students. At a time when graduates rely on firm salaries to alleviate their law school loans, positions at large law firms are increasingly difficult to obtain. The NLJ tracked the number of JDs employed at the largest 250 U.S.-based law firms (NLJ 250). Out of the top ten law schools sending the most J.D.s to the NLJ 250, three are in New York. In 2012, Columbia sent 53.26% of its graduating class, ranking them third; NYU sent 52.93% of its 478 J.D.s, ranking them fourth; and Cornell sent 44.27% of its 192 J.D.s to the NLJ top 250, ranking them tenth.¹⁰ Out of the remaining 40 places, Fordham ranked 19th with 23.41% of its 487 J.D.s working in private practice; Seton Hall ranked 37th with 10.31% of its 310 J.D.s in private practice;

and finally, Rutgers–Camden ranked 48th with 8.39% of its 274 J.D.s working at the NLJ 250. These statistics show there is little chance for a student at any of the other eight law schools in New York and New Jersey to land an associate position at a NLJ 250 firm directly out of law school.

However, problems may still exist for students fortunate enough to receive an employment offer from the private sector. Corporations may not want to enlist the help of young associates from large law firms. Nicholas W. Allard, Dean of Brooklyn Law School, reported:

In the past, graduates of elite schools arrived at major law firms with little knowledge of the actual practice of law. As a result, corporations hiring those firms felt that their large hourly bills were in effect going to train those graduates. [Those corporations] are no longer willing to do that.¹¹

Much of the legal community shares Mr. Allard's position. As a result, area law schools are implementing creative ways to address this concern.

The Solution

Many national solutions have been proposed and debated. These include: reducing law school from three to two years; allowing college students to begin law school as a junior; simplifying the bar exam; and developing a legal training model that permits students to practice in a capacity more extensive than a paralegal, but less than an attorney.

In the summer of 2012, the American Bar Association assembled the Task Force on the Future of Legal Education (Task Force) to make recommendations on how to address economic and substantive issues within legal education. The Task Force had 24 months to render its recommendations. Sensing the urgency of a resolution, Paula Littlewood, a Task

Force member and executive director of the Washington State Bar Association, stated, "There's a time for incremental change and a time for bold change. This is the time for bold change."¹²

The urgency of the statement was evident in the Task Force's discussion items during its December 14, 2012 meeting.¹³ Recognizing there are several models by which to train students, the Task Force embraced innovation and change. Rather than all law schools implementing a similar pedagogy, the Task Force determined that law schools should diversify their offerings to incorporate technology; teaching methods used by other disciplines; modifying the requirements to obtain a J.D.; and even school-wide specialization. The goal is to provide useful and effective models of legal education to meet the needs of modern law students' varying reasons for pursuing a J.D.

Although some of these recommendations may require legislative approval for implementation, it is important to assist law schools and state bar associations to facilitate innovation. Some organizations have realized this already and have begun innovations within their institutional frameworks.

Recent Legislative Efforts

New York and New Jersey have modified the rules governing the practice of law within their respective states. For example, effective April 1, 2012, New York's "Work/Study Rule" permits law students to begin studying for the New York Bar Exam after the first year of school in order to sit for the exam at the close of their second year. Before practicing on their own, students are also required to complete a work requirement that, in conjunction with credit for law school attendance, totals an aggregate of four years.¹⁴ This allows the graduate to develop the hands-on experience desired by employers while minimizing law school expenses associated with a third year.

In New Jersey, the Bona Fide Office Rule was relaxed to allow NJ attorneys to practice law without a physical office.¹⁵ However, attorneys are required to maintain a fixed location for mail, inspection of files and service of process. The New Jersey State Bar Association embraced the relaxation as a means to assist solo practitioners and small offices. President Kevin P. McCann reported:

The New Jersey State Bar Association is pleased that the Supreme Court has relaxed the onerous *bona fide* office rule, one of the few rules of its type in the country. The new rule ensures that lawyers will be obligated to continue to be responsive to clients, courts and adversaries. However, it removes barriers to maintaining a law practice; this will enable solo and part-time practitioners to flourish and result in a wider range of legal services being available to consumers.¹⁶

Most recently, there has been some debate about New York's requirement that graduates complete 50 hours of pro bono work prior to practicing law. New Jersey is presently considering the benefits of implementing a similar program for its attorneys.

Hands-On Practical Skills

Employers are concerned with the lack of hands-on experience that renders a young attorney capable of practicing law upon graduation. Several law schools have responded with changes to their programs. SUNY Buffalo offers four-week "bridge term" courses during the month of January. These courses give students the opportunity to develop their legal skills while learning about one or more practice areas. These practical skills are those that every young attorney should become familiar with and include courses such as Managing a Law Practice;

Commercial Litigation; Discovery Strategy; and Jury Selection. Adjunct professors tend to teach these courses and bring the added benefit of their current, real-world legal experience. Professor Charles Ewing, Vice Dean for Academic Affairs, stated that the new bridge courses are a key part of the law school's renewed commitment to graduating new lawyers who are ready to practice upon graduation.¹⁷

NYU is restructuring its offerings to law students.¹⁸ Known as "Professional Pathways," the proposed program aims to assist graduates by offering students an opportunity to specialize in a particular area of law during the third year of study. The university hopes this specialization will make graduates more attractive to employers who do not wish to spend time and resources training newly hired graduates. Initially, the program will consist of eight "pathways" with additions to the program in later years. The initial "pathways" are Law and Business; Global Legal Practice; Litigation and Dispute Resolution; Tax; Intellectual Property; Criminal Practice; Government Lawyering; and Academic Careers. To complete the students' experience, a transactional class or clinic and a capstone project consisting of an internship and research paper will also be required. While completing their "pathway," students will pair with an alumnus to serve as a mentor to assist with professional development.

In New Jersey, Seton Hall has been making efforts to expand hands-on training for students by developing its Legal Practice Curriculum.¹⁹ Last year, the research curriculum was enhanced by a pilot program consisting of five workshops that focused on different areas of research. Assistant Professors Amy Newcombe and Jamie Pukl-Werbel have been working to continue the program's success by developing different methods of presenting lessons to students. Most notably, the first-year legal research and writing

program is being changed to incorporate practical legal skills, including a hands-on client counseling component.

The professors believe that the changes to the program will be of lasting benefit to the students. Professor Pukl-Werbel reported:

This change was implemented to give students more exercises, more experiential learning than the typical Socratic or doctrinal method you would get in a class. This class is more practical; students will learn more by doing than by listening. While at law school students will be provided with a multitude of experience that begins with legal writing, to Persuasion and Advocacy, to Moot Court, to clinic. Each of these experiences depends on a strong core of legal writing. We have adapted the program so instead of churning out papers, students will begin connecting with real work as first-year students.²⁰

Seton Hall's focus on developing strong fundamentals will assist second and third year students, as well as recent graduates.

Tuition Costs

As mentioned above, law school is expensive and only increasing in cost. Although all law schools offer financial aid, few have developed incentives such as Seton Hall's tuition reduction program. Qualified students will receive a \$25,000 credit towards the 2013-2014 tuition rate of \$47,330. The resulting \$22,330 makes the cost of Seton Hall's private education comparable to New Jersey state tuition of \$22,746 for in-state residents.

Students meeting the qualifying criteria of a 3.5 undergraduate GPA and a 158 LSAT score will automati-

cally receive the tuition reduction without a separate application. Furthermore, the reduced rate will not bar students from receiving additional, merit-based financial aid.

Dean Patrick E. Hobbs recognizes the change facing the legal industry. Commenting on Seton Hall's recent initiatives, Dean Hobbs affirmed the university's responsibility to its students in the current legal climate:

We have a duty to respond in a meaningful way—making legal education more practice oriented and employment focused as well as more affordable. Our Legal Practice Curriculum, numerous clinics, pro bono programs and comprehensive intern and externship programs address the first concerns; this tuition cut will help to answer the next, making Seton Hall Law School more affordable for those who wish to attend.²¹

At present, cost is a major deterrent to applicants. If more schools were to offer tuition reduction programs, qualified students would graduate with less debt. This would alleviate students' financial stress while searching for employment. Coupled with strong fundamental skills, graduates may succeed and flourish in the job market.

Changes to Campus

Keeping law students healthy, happy, and well rested may be key to superior academic achievement and in turn, success on the legal job market.²² Syracuse has focused its efforts on improving the law school experience for its students. The goal of the university's most ambitious fundraising effort in school history came to fruition in May 2012 when the university broke ground on Dineen Hall, a 200,000 square-foot, five-story building, located on the west side of the campus. Adminis-

trators sought to focus on the needs of the cutting-edge law student and provide appropriate accommodations. The new building offers many open spaces for meeting places to facilitate collaboration among students as well as with professors. Among some of the building's highlights are new classrooms with state of the art technology, as well as a library hosting twenty-four hour student access with modern reading rooms and expanded facilities for student life and professional career development.

Jaclyn Donati Grosso, Director of Communications and Media Relations, commented that students would be able to enjoy the newly constructed student apartments located across the street from Dineen Hall. The close proximity allows students to safely walk to campus and spend their entire day without needing to go beyond the two buildings. The apartments are fully furnished and offer washer and dryer facilities as well as a fitness center to complement the locker room and café facilities in Dineen Hall. This will ensure an uninterrupted day when students need to prepare for a court appearance after a day of class and exercise.²³

To combat the inherent stress of law school, the building promotes the use of natural light and offers an escape from studying on the rooftop terrace. For sports fans, the new building benefits from a close proximity to the Carrier Dome, home of the Syracuse Orange football, basketball and lacrosse teams. Offering this well-rounded and modern law school experience may provide students the environment they need to succeed academically.

Conclusion

Law school application numbers continue to decline as qualified students elect to pursue other career paths. However, this change may reflect a positive opportunity for the profession. For the most part, law schools have implemented the same model of legal education for the last

thirty years, notwithstanding the increasingly fast-paced nature of the profession and immediate demands of legal practice. But with the rapid innovation increasingly seen in the legal community, the problems of a high cost education combined with faltering job prospects may be mitigated.

Endnotes

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Michael Peter Gerrity, Esq. (Gerritmp@gmail.com) is an attorney who currently resides in Morristown, New Jersey. He recently completed a NJ Superior Court clerkship and is admitted to the Bars of New York and New Jersey.

Pro Bono and the Aspiring New York Lawyer: What You Need to Know

By Sarah E. Gold

Lewis Powell Jr., a former U.S. Supreme Court Justice, once said, "Equal justice under law is not merely a caption on the facade of the Supreme Court building, it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists... it is fundamental that justice should be the same, in substance and availability, without regard to economic status."

It is in that vein that Chief Judge Lippman announced on May 1, 2012 his intent to require all prospective attorneys in New York to perform 50 hours of pro bono before allowing them to gain their law licenses in New York State.

The proposed Pro Bono Requirement rule was formulated by the Advisory Committee on Pro Bono Bar Admission Requirements (http://www.nycourts.gov/press/pr2012_03.shtml) after receiving comments from law schools and students, bar associations, attorneys, providers of legal services to low-income individuals and other interested parties. The Court of Appeals adopted section 520.16 to Part 520 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law, which sets forth the 50-hour requirement (*see* 22 NYCRR 520.16).

For those currently in law school, what does this mean? If you are currently enrolled at an ABA-approved law school and you expect to be admitted to practice in New York after January 1, 2015, you will need to complete 50 hours of qualifying pro bono work before you apply for admission to the New York bar. Law school graduates who pass the bar examination and are admitted to the New York bar before January 1, 2015 are not subject to the pro bono requirement.

Your qualifying pro bono work must be completed before you submit your Application for Admission to the appropriate Appellate Division of the New York Supreme Court. For those in the First Department, that means filing after you have received your bar exam results and you have been issued your certification of bar passage. In the Second, Third and Fourth Departments, you can file after you take the bar examination, regardless whether your examination results have been announced.

The range of what is considered pro bono for this requirement is quite broad. Ultimately, the work must be law-related. That being said, this is not a rubber stamp for the unauthorized practice of law (UPL). In fact, in recent news, UPL causing more than \$1,000 in damage to a client is a felo-

ny in New York beginning November 1, 2013. To prevent this, any pro bono work must be performed under the supervision of an attorney admitted to practice and in good standing with the bar in the jurisdiction in which the work is performed, a law school faculty member, or in the case of a clerkship or externship in a court system, by a judge or an attorney employed by the court system. The person in the supervisory role must certify the hours in order for them to count. An extensive list of what does and does not qualify can be found in a FAQ set forth by the courts here: <http://www.nycourts.gov/attorneys/probono/FAQsBarAdmission.pdf>.

While pro bono is an aspirational tenet for attorneys set forth in Rule 6.1 of the New York Rules of Professional Conduct, for those not yet licensed this is now a requirement. As such, plan accordingly. There would be nothing worse than having your career derailed before it began for lack of pro bono hours.

Sarah E. Gold is owner of Gold Law Firm in Albany, NY, focusing on small business law issues. She is the current Treasurer of the Young Lawyers Section and recently presented on Ethics and Social Media at the YLS Fall Meeting in Albany.

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Is Law School Merely Trade School?

By Sarah E. Gold

After three years and passing a state-mandated exam, each of us is proud to say that we are a licensed attorney. That is, until the loan payments threaten to outstrip our livelihoods and some begin to wonder if the license is in fact a shackle. Such discussions have brought about class action lawsuits, and lately have caused some to wonder if three years are even necessary. On January 18 at New York University, judges and law school faculty members gathered to discuss a proposed rule change¹ which would permit students to sit for the bar exam after two years of school. This change would give a successful candidate a law license, but not a J.D. degree unless he or she continued on to a third year of study. The primary argument is that by cutting down the time in school by a third, the amount needed in loans would be similarly decreased and the candidate could then begin to practice that much sooner.

In New York, from 1882 until 1911, if you were a college graduate, you needed to complete only two years of law school to sit for the New York bar examination.² Even today, one need only complete one year of law school and four additional years of study in a law office before sitting for the NYS Bar Exam.³ This route is rarely used, however. Further, other legal systems which require practical experience before sitting for a law exam have met with limited success. For example, the Canadian system requires an articling term—a clerkship at a firm (10 months in Ontario, 12 months in Nova Scotia) during which a prospective lawyer can sit for the licensing exam. Such a position is sought after the first year of study. However, the Canadian system is not without fault. In May 2012 it was reported that 15% of those seeking an articling position in Ontario could not find one.⁴ This would keep those unable to find a position

from qualifying for a license in that province.

Does removing a year of study in New York improve the economy for law students? The argument is a complex one. For those who choose the two-year plan without the JD, are they less a lawyer than one who finishes with a terminal degree? Do they subjugate themselves to permanently stratified existence as a non-partner track attorney? Given the current economic climate for those coming out of law school, will those who choose the three-year plan really be that better off? Has the value of a JD fallen to a level of a trade school certificate?

Beyond the economics of the third year for the student, there is a real impact for law schools as well. In 1970 a study was done on legal education reform exploring this issue and it is once again being reviewed by the ABA Task Force on the Future of Legal Education. This may in fact take some more marginal law schools and force them to close, which economically could be a good thing. To think about the staffing necessary to maintain a two-year program over a three-year model, schools might be forced to remove a third of their staff in order to make it financially feasible. Third year classes tend to have a much lower student/professor ratio, and without those intensive courses some professors could find themselves redundant.

Ultimately, legal education is at a crossroads. The status quo is untenable and something must change for students to continue to study the law without mortgaging their futures. Seeing where these changes may leave the profession is something that every lawyer needs to look at, because at the end of the day the value of your license is at stake.

Endnotes

1. http://www.law.nyu.edu/ecm_dlv2/groups/public/@nyu_law_website_journals_journal_of_legislation_and_public_policy/documents/documents/ecm_pro_074504.pdf.
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Recent Developments in the Student Debt Crisis

By Laura Backus

The average debt of a law school graduate is approximately \$125,000 at private institutions and \$75,700 at public institutions.¹ Given the discouraging chances of getting and keeping a legal job, much less a lucrative one, it is not surprising that the number of law school applicants has been sharply declining in recent years.² This article sets forth the differences between federal and private student loans, and discusses several repayment options available to student loan borrowers.

I. Federal Student Loans

Federal student loans are complex because their terms and conditions may change with new legislation. Much of the legislation is intended to improve consumers' ability to make repayments, but the constant changes are difficult to monitor and destabilize the borrowing framework. This uncertainty is reflected in interest rates for subsidized Stafford Loans, which rates are set to double in July 2013 from 3.4% to 6.8% unless Congress votes to maintain the status quo.³

Several different income-based repayment (IBR) programs have been available since 2007, with the most recent iteration effective December 2012. These repayment plans greatly benefit those who have been struggling to repay their student loans. To qualify for IBR, the borrower must demonstrate partial hardship, meaning that his or her payments under the standard 10-year repayment plan are greater than his or her payments under IBR. In this program, the monthly repayments are capped at 15% of the debtor's discretionary income. After 25 years of on-time payments, the balance of the loan is forgiven. The latest iteration of this program is

called Pay As You Earn (PAYE), for borrowers with at least one federal loan issued after October 1, 2011. PAYE further eases a borrower's debt burden by capping monthly repayments at 10% of the borrower's discretionary income and forgiving the outstanding loan balance after 20 years of payments.

One program that has remained constant since its introduction in 2007 is the Public Service Loan Forgiveness Program, for debtors working in the public interest sector.⁴ After ten years of on-time payments while working in a qualifying public interest position, which years of service need not be consecutive, the remaining balance of the loan is forgiven.

Unfortunately, federal student loans share some of the pitfalls of private student loans, although federal loans tend to be far more consumer-friendly overall. First, federal loans are extremely difficult to discharge in bankruptcy, except in extreme circumstances, such as when the debtor can prove lifelong disability that will prevent employment. Second, if the debtor passes away, most federal loans, with the exception of Perkins Loans, are not discharged with respect to the co-signer. The federal site for student loans has comprehensive information about federal student loans and payment plans, and may be accessed at www.studentaid.ed.gov.

II. Private Student Loans

Student loans from private financial institutions lack many of the consumer protections of federal loans. These loans are not eligible for the federal loan repayment plans and cannot be consolidated with federal loans. They usually have higher, variable interest rates as opposed to

the lower, fixed rates of federal loans. Despite the fact that private loans have fewer consumer benefits, they are treated like federal loans with respect to bankruptcy and death. However, one advantage of private student loans is that they are often subject to limitations periods, which vary by state.

Recently there have been calls for private student loans to be treated similarly to other consumer loans, such as credit card debt and mortgages, which are dischargeable in a Chapter 7 or 13 bankruptcy.⁵ This would provide debtors some power to bargain with private lenders. Bills have been introduced in the House and Senate to explore this form of consumer protection.

III. Looking Forward

The unprecedented student debt burden of young Americans in their 20s and 30s will undoubtedly have negative consequences for many years to come. For many, monthly student loan payments mean less money to set aside for retirement, not to mention day-to-day necessities such as housing and health care.

The government has already made important steps in dealing with this issue and is continuing to look for ways to help individuals buried in student debt. IBR and PAYE have the potential to make repayment more manageable for many debtors. However, eligible debtors have been slow to sign up for the programs, likely because they are not aware of the programs or they assume that they are ineligible. Increasing participation in the programs would provide some relief.

The CFPB is gathering information on student loan issues from various stakeholders, including consumers and debt collectors,

among others, to determine how best to address this crisis. Submissions are accepted at www.consumerfinance.gov/students/helping-borrowers-find-ways-to-stay-afloat. For debtors already in default, there are efforts to track complaints regarding collections processes. The Department of Education's website for Federal Student Aid Debt Resolution has a newly streamlined section for complaints regarding the collection of student debts at www.myeddebt.com/borrower. Both of these calls for feedback from

stakeholders are initial steps toward alleviating the crisis.

Endnotes

1. Debra Cassens Weiss. "Average Debt of Private Law School Grads is 125K." ABA Journal, March 28, 2012.
2. Law School Admission Council Report. <http://www.lsac.org/lisacresources/data/three-year-volume.asp>.
3. Ann Carrns. "Rates on Some Student Loans Again Set to Double." New York Times Blogs. March 13, 2013. <http://bucks.blogs.nytimes.com/2013/03/13/rates-on-some-student-loans-again-set-to-double/>.
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