



Point Too Many Hungry Crows Pecking at a Smaller Pie

Why Law Schools in Michigan Must Shrink Enrollment to Preserve Quality and Opportunity

By Thomas H. Oebmke and Joan M. Brovins

Too Many Attorneys

Take out your foolscap and fly over Oakland County. Huddled on each square mile of land are 12 active lawyers waving briefcases in the air.¹ That's approximately one attorney serving every 116 residents.² No wonder 52 percent of our fellow State Bar of Michigan members think there are too many attorneys.³ Imagine what the general public thinks!

Too often Michigan law schools boast of boosting their first-year classes by multiples, one year after another. This offers little solace for prior law school graduates making their way as practitioners in the real world. Unlike prior years, many large firms reportedly slashed new hires by half last year.⁴ Revenues are eroded by nonlawyers (paralegals, title insurers, mortgage companies, overseas outsourcing, computers) picking the lunch from our plates because we offer no economical alternatives to big-ticket legal fees. That light at the end of the tunnel really is a locomotive.

Unhappy Campers

Dissatisfaction brews. Of a million lawyers in North America, some 40 percent wish they were doing something else, just as 38 percent of Michigan attorneys find law less satisfying, or unsatisfying enough to stop practicing or change their practice area.⁵ More than one-fourth of Michigan attorneys receive no personal satisfaction from the practice of law, or too little.⁶ Only law schools

advise graduates about 300+ things you can do with your degree,⁷ not medical or architectural schools.

We are increasingly astonished by the severity of the offenses for which many of our brethren are disciplined or disbarred. The ranks of the dishonored include a seemingly high proportion of low-seniority entrants into our profession. "There's something happening here; what it is ain't exactly clear."⁸

Too Little Meaningful Work

Michigan's out-migration continues. Its once 19 congressional districts now number 15, with another loss projected after this year's census. In the past 35 years, the number of Michigan attorneys has likely tripled; yet since 2001, the net population loss in Michigan is 465,659.⁹

Is there enough work for so many lawyers? "No," 22 percent of us exclaim, finding the workload insufficient to keep busy, with 61 percent feeling that economic conditions have worsened over prior years.¹⁰ This is old news, so it is unwise to blame today's recession.

In the coming years, only top-end graduates in blue-chip firms will practice enough to become truly expert, leaving less well-heeled clients to retain small firms and solo practitioners. Some associates will find it difficult to establish a volume and depth of legal practice to properly mature into seasoned professionals. Would you rather have a surgeon who performed 300 operations annually or one who performed three?

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Yes, there will be experienced lawyers, but overshadowed by a scrum of our brother and sister counsel who have hung out their shingles without a full-time practice to show for their effort and investment. Some prospective clients will not immediately know the difference, deceived that law licensure equates with competency. And you thought there was an end to lawyer jokes!

Unrealized Gain

We invest seven years in college and law school plus years laboring in the legal fields, mastering the practice of law. Yet in 2007, a law graduate who could not affiliate with a firm and worked as a sole practitioner sharing space could expect a gross income of \$65,000.¹¹ Such proceeds bode ill for new graduates, not to mention the next generation of law school donors.

Law Schools Fan the Flames

Michigan boasts five law schools, down from seven at its peak. Those law schools make a social compact with their graduates: expect satisfying, well-compensated work as an attorney, sufficient to justify your investment and repay your loans.

But the law of supply and demand undermines the cost-benefit ratio of going to law school: excess supply (lawyers) facing too little demand (clients). As for the social compact between law school and student, recall when you added *breach of contract* to your legal vocabulary as a first-year student.

Change the Paradigm

A law degree has displaced the MBA as common currency in the business world, diminishing the value of the JD. When grad-

uates cannot “practice law,” the JD becomes little more than an MBA on steroids. Law school graduates are seen as über-educated generalists who can read, write, analyze, and speak. But an ever-increasing number of law degrees contributes little if there is insufficient work to challenge graduates. We must escape this vicious circle. Consider the following suggestions:

- Like medical schools, Michigan law schools must limit graduating classes in relation to job opportunities. Nationally, the American Bar Association’s accreditation program must lead.
- Michigan law schools must consolidate from five to three, perhaps by merger or joining forces in some other fashion.
- Law schools must reduce costs and increase relevancy, presenting digital lectures by scholar-practitioners (adjunct professors) and relying less on full-time faculty, many of whom lack substantial legal practice experience.
- The State Bar of Michigan must wrestle with certifying post-JD specialists. This will help clients identify attorneys with in-depth legal education and experience in specialties like international law, intellectual property, environmental law, tax law, litigation, alternative dispute resolution, appellate practice, business/commercial law, probate/estate/elder law, employment/labor law, family law, criminal practice, and more.
- Law schools must teach “best practices” and law practice efficiencies to preserve the highest standard of care at the lowest cost to clients. Clients know when they are charged too much for too little value.
- Add your idea here.

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If these are not the best ideas, then we need to change the direction of the State Bar to address quality of counsel. At the risk of heresy, the seemingly perpetual focus on Access to Justice must take a back seat to quality of counsel until we get that part right.

Let's Begin the Debate

This is the tip of the iceberg. The elected leaders of the State Bar of Michigan should guide the dialog to expand professional opportunities and avoid diluting the ranks of practitioners to ensure high-quality attorneys for all clients. Together, we must *raise the bar*. ■

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FOOTNOTES

1. 873 square miles of land and 10,339 attorneys as of 2010. Wikipedia, Oakland County, Michigan <http://en.wikipedia.org/wiki/Oakland_County,_Michigan>; see also State Bar of Michigan, *Michigan Lawyer Distribution by Counties and Cities* <<http://www.michbar.org/resources/distribution.pdf>> All websites cited in this article were accessed September 19, 2010.
2. Oakland County population estimated at 1,205,508 as of 2009. Wikipedia, Oakland County, Michigan.
3. See State Bar of Michigan, *2007 Economics of Law Practice in Michigan*, p. 3, available at <<http://www.michbar.org/pmr/articles/0000142.pdf>>.
4. Minority Corporate Counsel Association, *Stormy Job Climate for Law Graduates* <<http://www.mcca.com/index.cfm?fuseaction=page.viewPage&pageID=2071>>.
5. Schafer, *Searching for a second career*, 88 Mich B J 54 (August 2009).
6. State Bar of Michigan, *2007 Economics Report*, p. 15.
7. See Schafer, 88 Mich B J at 54.
8. Buffalo Springfield, *For What It's Worth* (Stills) (Atco Records 1967).
9. French & Wilkinson, *Leaving Michigan Behind: Eight-year population exodus staggers state; Outflow of skilled, educated workers crimps Michigan's recovery*, Detroit News (April 2, 2009), available at <<http://detnews.com/article/20090402/METRO/904020403/Leaving-Michigan-Behind--Eight-year-population-exodus-staggers-state#ixzzOzWRPkPdIF>>.
10. State Bar of Michigan, *2007 Economics Report*, p. 15.
11. *Id.* at 10.

to firm in organization, specialization, staffing, and client demographics, but difference says nothing about the individual quality of client service. Large-firm associates can, unless intentionally mentored, fail to develop the practical skills needed for competent advocacy, just as small-firm and solo practitioners must attend to their professional development.

“Crows” asserts that lawyers practicing part-time are a “scrum” overshadowing experienced lawyers while deceiving clients into accepting incompetent legal service. To the contrary, licensure ensures competence. Lawyers practice part-time and in semi-retirement so that they may parent and attend to other family responsibilities and to pursue other interests and careers. These other activities tend to inform a part-time lawyer’s legal judgment while balancing law practice—and increasing happiness. Part-time practitioners enrich the profession, providing skilled resources and alternatives for clients.

Keep the Paradigm

“Crows” suggests the merger or dissolution of some Michigan law schools, on the basis of several misconceptions and inaccuracies. The authors:

- State that a “law degree has displaced the MBA as common currency in the business world, diminishing the value of the JD.” Is it bad that businesses are hiring lawyers for non-legal positions?
- Propose the forced merger of Michigan law schools when each has its distinctive constitutional or charitable nonprofit governance and educational mission.
- Want the ABA to ensure minimum compensation for lawyers by limiting access to the profession when, to the contrary, its accreditation role is limited to ensuring that a law school’s operation is “consistent with sound legal education principles.”⁹ What vision of law and values would countenance the ABA or the State Bar of Michigan dictating that individuals may not go to law school?
- State that many law professors “lack substantial legal practice experience” and propose greater relevance through adjunct faculty when, to the contrary, full-time faculty members at Cooley have substantial practice experience and offer rich educational expertise, and Michigan’s law schools

