

PREPARING LEGAL INFORMATION MANAGERS FOR PRACTICE IN THE DIGITAL AGE

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FORTY years ago, I entered law school as a first year law student. The educational environment I encountered then is a far cry from the one that greeted students who began their legal studies this academic year. Almost all of my classmates and professors were white males; required doctrinal courses dominated the curriculum; and the pedagogy was fixated solely on teaching students to “think like a lawyer.” Today, the student body is equally divided between men and women, better than one in five are students of color, and the faculty increasingly reflects the students they teach. Today, electives overshadow a curriculum enriched by multi-disciplinary courses, and clinical programs expand educational goals to reach beyond the cognitive. These programs include the active and affective domains of students who are taught to “act and feel like a lawyer,” as well as to “think” like one. In four decades of close association with the academic process—as a student, an employer of law clerks, an adjunct faculty member, a full-time professor, and a dean—I have been an active participant and observer of legal education’s transformation.

As much as the legal academy has changed, it remains recognizable to those teachers and students of the past who have not closely followed the evolution. These early days of the new millennium, however, find another change agent at work in the legal academy, one that may affect the educational landscape so dramatically that many who graduated earlier will find it an unfamiliar teaching/learning territory. Technology has the potential of re-shaping legal education in the most remarkable and profound ways yet experienced.

A decade or so ago, as the dean of the University of Richmond School of Law, I had the opportunity to make a presentation to the AT&T Education Foundation. The Foundation had designated the University as one of the potential recipients of annual in-kind and cash grants made to higher education institutions. Each of the University’s academic units was invited to submit a proposal on how it would employ technology resources if they were made available by AT&T. At the core of my proposal on behalf of the Law School was the concept that lawyers are sophisticated managers of information. On behalf of their clients, lawyers acquire, research, investigate, organize, analyze, synthesize and present information in formats that allow clients to make informed decisions and to empower the attorneys to act in furtherance of the clients’ legitimate interests. From this premise, I reasoned that lawyers would embrace emerging information technologies in ways not yet contemplated by technology providers or members of the bar.

During my oral presentation, the AT&T review panel questioned me closely. “Assuming,” they said, “your information manager hypothesis is true, what evidence do you have that lawyers will turn to technology to process their information?”

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Panel members went on to point out that the legal profession had demonstrated little interest in using technology in practice, beyond the then still growing but not overwhelming use of legal database research tools such as Lexis and WestLaw. I responded that lawyers, as consummate rational and logical beings, would soon appreciate the use and value of information technology in law practice across legal disciplines and specialties.

My answer was correct. From early, tentative use of technology, lawyers across the broad spectrum of legal practice have evolved into high-end users of today's information and presentation technologies. A visit to an Expo exhibition at an American Bar Association Annual Meeting (or, for that matter, at any gathering where a hundred or so attorneys congregate) will convince even the most doubtful observer that law practice has changed. ABA Expos of the late '80s and early '90s were populated by book vendors and paper product exhibitors; recent Expos are dominated by sellers of advanced technology systems of every imaginable type. Walking acres of aisles at Expo, one finds law office management programs that transform linear feet of cabinets holding hundreds of hardcopy case files into electronic data bits that reside on a single server; technology that permits documents, once laboriously filed and retrieved by hand, to be automatically indexed and instantly available; teleconferencing devices that link lawyers, clients, witnesses, fact-finders and decisionmakers wherever they are; and software that allows lawyers to present dynamic visuals, audio files, video clips, charts, and exhibits to whomever needs to know, whenever they need to know it. Lawyers, as highly sophisticated information managers, have demanded more in the way of information technology, and the industry has molded information technology to meet the demands of modern law practice. Technology will continue to influence lawyers and the profession. The Law Practice Management Section of the American Bar Association recently identified the twenty-five trends to watch in the practice of law in the new millennium. Forty percent of the changes highlighted by the Section depend on the use and mastery of information technologies.

As well as being an accurate forecast of technology and the legal profession, my response to the queries of the AT&T panel also must have been persuasive. The Law School was awarded a \$400,000 in-kind grant by the Foundation, the first ever made by AT&T to a law school. The gift allowed the creation of what then was a cutting-edge Intranet, and it laid the base for the University of Richmond School of Law to be the first to require students to have laptop computers. The AT&T award also gave my colleagues and me an early view of the likely impact of technology on the legal education enterprise.

The perspectives I gained at Richmond Law were invaluable as I attempted to guide the Shepard Broad Law Center at Nova Southeastern University into the world of technology. For example, at Richmond we made a million dollar decision to include "hot wired" carrels for every student in the new law library construction at a time when the technology to support laptop use in that environment was anticipated but not yet developed. Thankfully, the equipment came online as projected, and Richmond Law students were able to connect to the Internet and from there to the rest of the world from their individual "offices" in the Law Library. Confidence generated by successfully relying on the remarkable rate of technological advancement in that situation prepared me to make other risky

technology determinations at NSU Law. Thus, when confronted with the choice between the costly but safe approach of adding conduit and pulling cable to all classrooms or of installing wireless technology at a time when it was in its infancy, I had the assurance to decide to go wireless. When we installed the first wireless network in legal education in 1996, NSU Law was the largest academic facility in the country operating such a system. At the same time, we were comfortable in replacing every professor's desktop computer with a state of the art laptop. Although the decision to move to high-end laptops was costly, the Richmond experience revealed that cumbersome desktop computers made it difficult for faculty to experiment with using technology in the classroom. More expensive portable equipment, however, freed them to play with new and innovative applications and then to bring what they learned into class. These and other steps to integrate the use of technology into the day-to-day interchanges between and among faculty, students, and administrators have expanded our educational and service horizons. They also built a foundation on which *National Jurist* magazine twice rested the naming of NSU Law as the nation's "Most Wired" law school.

A reading of the two *National Jurist* articles that reported on the 1998 and 2000 surveys of technology in legal education reveal how broadly computers have altered the process, not only of how professors teach and students learn but of how the educational enterprise is now administered. From electronic exam taking to online resume distribution, every service office in the Law Center has undergone a technology transformation. In their forthcoming piece, my colleagues, Professors Pearl Goldman and Billie Jo Kaufman, chronicle technology changes in the classroom.¹ Today's wireless classrooms are equipped with built-in liquid crystal display (LCD) units for video and computer projections on electronic screens and mobile laptop computers for class recording, digitizing, and playback. Laser pointers and wireless "mice" enable faculty members to control media from anywhere in the room. Mobile SmartBoards, digital and videotape cameras, ELMO document-imaging projectors, drop-down microphones, permanent computers with CD-ROM capabilities, and PictureTel videoconferencing equipment are becoming standard academic accessories.

In a provocative recent essay, Professor Nicolas Terry² of St. Louis University School of Law asserts that the traditional law school model will be substantially altered by the new technologies. Terry argues that legal education will undergo significant re-engineering as it responds to the re-shaping of law practice. Professor Terry explains how the law school curriculum will be re-tooled to be relevant in the Information Age.

Reports produced by practicing lawyers and articles authored by legal academics point the way to the inevitable expansion of technology's use in legal education. If we follow the map created by the experts, it leads us inevitably to distance education (DE). Technology-based DE will revolutionize legal education as we have known

1. See generally Pearl Goldman & Billie Jo Kaufman, *How to Push an Elephant Through a Straw: Using Wireless Technology in a Web-Enhanced Skills Program*, REV. L., COMPUTERS & TECH. (forthcoming 2001).

2. See generally Nicolas P. Terry, *Bricks Plus Bytes: How "Click-and-Brick" Will Define Legal Education Space*, 46 VILL. L. REV. 95 (2001).

it for well over a century. At the heart of legal education since it was re-invented in 1870 at Harvard by Dean Christopher Columbus Langdell was the constant of teachers and learners in the same place, at the same time, engaged in the same enterprise. Technology-enabled DE will dispense with the space/time/enterprise continuum that has bound legal education, enabling it to extend its reach far beyond the walls of the law school building.

The separation of space, time and enterprise has already begun. For some years, a technology pioneer, Professor Peter Martin of Cornell Law School, has taught traditional law courses over the Internet to students at several widely separated schools. Concord Law School in California, an institution that is not accredited by either the ABA or the California Committee of Bar Examiners, offers a JD degree program that is delivered completely online. These and other experiments in legal DE are chipping away at the space/time/enterprise core of legal education.

At NSU Law, we are using technology-based distance education techniques in a variety of settings. In an online pre-admission program, in traditional JD courses taught via WebCT, and in a degree program for non-lawyer professionals presented over the Internet, we are testing how far quality legal education can stray from the four corners of the law school building. By the conclusion of this academic year, one-third of the full-time faculty of NSU Law will have taught a course online over the Internet using the latest in DE technologies.

We are not close to reaching final conclusions on how far DE can be pushed nor the precise role it will play in legal education. A strong tentative hypothesis, however, has emerged. Distance education will be a powerful force that will be harnessed by legal educators over the next few years. Collaboration among the critical mass of NSU Law faculty who have and will use DE modalities in the near term will allow us to master this force and apply it in increasingly exciting ways. In doing so, we will transform legal education at NSU by unleashing the full potential of distance education.

If the ghost of Dean Christopher Columbus Langdell were to visit any of today's law schools, he certainly would be surprised, perhaps shocked, by the professors, the learners, and the subjects they teach and study. The Dean's spirit, however, could easily identify most of today's law schools as the institutional progeny of the one he created at Harvard more than six score years ago. On the other hand, if he were to delay his visit for just a few more years, Langdell's ghost would be sure he had landed in an alien educational world. Many of the students and professors of tomorrow's law school will be far removed from each other; many will be teaching and learning asynchronously; and only some will be working on the same aspect of the educational enterprise, although they will be part of the same "course." Landell's spirit will find little remaining of the space/time/enterprise continuum that was the very heart and soul of his legal education model.

How extraordinarily exciting it is to be a legal educator as the legal academy activates another agent of change. To be both involved in yet another alteration of the educational process and, at the same time, to be able to observe the latest transformation is a very special treat. As my career in legal education winds down and I look back over four-plus decades of teaching and learning, I can smile in satisfaction at our advances in preparing information managers to better serve their clients.