

ESSAYS

SEASONS & SEA CHANGES: WEATHERING THE STORM, AN ENCOURAGING TALE

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FROM the looks of the foliage, the smell in the air, the crisp, cooler temperatures, and the bright blue skies, Fall is in residence. I enjoy the Fall, a time for new beginnings in the academy. This is my seventh Fall as Dean. I am also celebrating my twenty-first year in legal education. Nearly half of these years have been spent in decanal-related positions. The time has flown by. Just as one cannot predict with certainty what the Fall or any other season will bring, I often tell people who ask me about my experiences that I never have a dull moment and, despite all of the routine responsibilities involved, I also say it is never the same day twice.

The national climate is turbulent due, in part, to economic and political uncertainty. According to David Brooks of the *New York Times*, we are not in a “period of austerity,”¹ but in “an age of austerity.”² And we are not alone. The average person in developed economies around the world is fearful, angry, and perplexed as dreams of abundance, security, and entitlement seem more elusive.

In the legal profession, some are predicting that the golden era of “Big Law” is over.³ For the past two years at various conclaves of legal education, we have been warned that a wave of change has been coming our way for a while. If you think about it, every major sector in our economy has had to or is in the process of restructuring: the automotive industry, housing, technology, health care, and the legal profession.

The forecast for legal education, in terms of traditional placements in law firms is gloomy, not only because of the economy, but also because we are in the midst of restructuring in response to what the market now demands.

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1. *See Week in Politics: Wisconsin Recall, Presidential Race* (Nat’l Pub. Radio broadcast June 8, 2012), <http://www.npr.org/2012/06/08/154600976/week-in-politics-wisconsin-recall-presidential-race>.

2. *Id.*

3. *See generally* RICHARD SUSSKIND, *THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES* (2008), and BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* (2012).

Globalization, technology, and the economy require that we think differently about everything. For many, this is a perfect storm.

Legal education is not immune to the realities of the marketplace. With declining applications, fewer jobs, and more and more demands from students, accrediting bodies, politicians, and employers (to name just a few), law schools and law deans are adjusting their expectations and programs to stay competitive and relevant. Managing the demands (realistic or not) of all of the constituencies who are a part of the greater law school universe, in good times, can be tricky. Trying to do so, when resources—some of which you control and others which you do not—are scarce can be complicated.

One thing is for sure. Change is inevitable. Predictability is not the constant, change is. No matter what we do, things will never be the same. This is a season of change. Lest you think that I am pessimistic about the future of legal education, let me go on record and say that I am not. Just as during the Great Depression, panics, and other recessions, when great companies including Procter and Gamble, General Motors, IBM, and FedEx, rose like the phoenix out of the ashes, those who know how to innovate, weather the storm, and prepare for after the storm will be great exemplars of success. I am not suggesting that this will be easy. The measure of success may not be exactly the same for everyone. However, it is time that thoughtful legal professionals and educators—who have mastered the facts and who are dedicated to this great enterprise, which has been the gold standard around the world for training lawyers—come together and set out on a course that will not only benefit the next generation of lawyers,⁴ but will also continue to have multiple dividends for communities around this globe. But first, we must get through the storm.

A story from a recent vacation illustrates the point. I was invited down to the Virgin Islands by a friend who said: “Just come; don’t worry about anything; you just need to get away.” I took her up on her offer, only to discover shortly before arrival that, although I was flying into Saint Thomas, I would actually be going to Tortola in the British Virgin Islands. Although The Weather Channel had predicted rain for the entire time I was to be there, it was a beautiful day when we arrived. After being transported from the airport, we stood on the dock waiting for our ferry to come and take us to Tortola. I watched as the large ferries came and went, and decided that when our ferry came, I would be all right. I had to make that assessment because I have severe motion sickness. I do not fly or ride in boats or even in the back of buses unless I have my electronic device⁵ and medication with me at all times. Finally, our ferry came, but it was not what I expected. It looked like a tug boat. I was a little nervous, but resigned to move forward. I stood outside and watched people board. I studied the crew

4. At the August 2012 American Bar Association Annual Meeting, a task force on legal education was announced. See Press Release, A.B.A., *ABA President Names Task Force on the Future of Legal Education* (July 31, 2012), available at <http://www.abanow.org/2012/07/aba-president-names-task-force-on-the-future-of-legal-education/feed/>.

5. I wear an electronic relief band that delivers a charge every three seconds and prevents motion sickness. It resembles a watch, and it has a dial that allows for increasing the intensity of the shocks from one to five.

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and watched them load all the luggage and goods being taken to the island. Because I cannot endure the rocking back and forth when the boat is tied to the dock, the captain and I were the last to board. The ride was not the smoothest, but I turned up my device and was happy when the thirty minutes were over and we docked at Tortola.

I had a great time in Tortola. It was sunny and bright the entire time, and then I discovered that I would have to leave a day early in order to make my connections back to the States. The same ferry with the same crew boarded us for our journey back to St. Thomas.

When we left port it was overcast, but no rain. About fifteen minutes into the ride, the sky became black, the winds picked up, and the ship began rocking like a mechanical bull. I heard one passenger say that the waves seemed to be thirty feet high, like surfer waves. I had sat by a window because, in moving conveyances, I am always looking for a horizon for balance. Water began trickling in my window. The roar of the waves was like nothing I had heard before. I was so disappointed—no, frightened. I thought that if I could have only been on the big ferry, maybe it would not be so bad. I turned the dial up on my device so that the shocks would override being tossed around. I could see nothing but foam outside. This storm came out of nowhere, at least so I thought.

I told myself that panic would not be productive. Once I calmed myself, I decided to fight fear with fact. I thought about what I had seen both times with the crew. They appeared to be knowledgeable and capable. I then thought about the fact that they made this journey several times a day, and had probably been doing this for years, in good and bad weather. I heard them rev the engines, and I took that as a sign that we would continue to move forward. The ten minutes—and I was counting—of rocking, noise, blackness, mixed with diesel fuel and sea foam, felt like an eternity. I knew that my options were limited. I certainly was not going to get out of the boat.

Then it happened. I saw something that gave me encouragement. I began to make out the shore line. My destination, although miles from where I was and partially obscured by the rainfall, was in view. I encouraged myself with this sign of progress. The boat was still rocking, the waves still roaring, but my destination was ahead. I remembered that I did not come to Tortola to die. I had done everything that I could do to keep myself from being sick, so that, when I got off the boat, I could continue with my plans. The *journey* was not my destination. When we arrived at the dock, it was still raining; but, I was in a situation over which I had a little more control. Within five minutes of my arrival, the storm passed.

The lessons that I learned from that experience apply to what we are experiencing as we traverse through these storms in the legal academy and in life. These include:

1. Pay attention to the weather, especially if you have to traverse uncontrollable waterways. I had not listened to the weather forecast for that day, and had been lulled into complacency about the weather.

2. No matter how sunny and bright it may be, sooner or later it will rain, so be prepared for the inevitable. I was wise enough to take my medical aids with me and to position myself so that I could find some comfort.
3. Sometimes you will get warnings about storms, and sometimes you will not. When trouble comes out of the blue, one has to remember to control one's emotions, fight fear with facts—especially when facts are on your side.
4. Timing can be everything. Had I left on an earlier ferry, I would have missed the storm completely. Had the ferry left fifteen minutes earlier or twenty minutes later, I would not have been in the turbulence at sea. Through my own inadvertence, I missed the earlier ferry.
5. Concentrate on what you can control. Wanting blue skies will not make them appear. Direct your energy into more productive activity.
6. If you have doubts about leadership, do not set off on a journey with them. Once the course has been set and things get rough, abandoning ship may not be an option, although it is always wise to know where the life rafts are located.
7. If you can trust those who have traversed the treacherous seas before to get you to your destination, odds are you will arrive. You may be delayed for a few minutes, but you will get there.

With all the thunderous noise about the future of the economy, our country, our profession, and legal education, it is understandable if one experiences fear and fatigue. We are experiencing a climate that is not sunny and bright; therefore, it cannot be business as usual. However, lawyers are problem-solvers. We must turn the problems we face into opportunities for the better. While nostalgia has its place, trying to turn back the clock is counterproductive and relying solely on hope, for the future, is not a good plan. The critical analytical and skills training we received in law school was second to none, and that is why the law degree is still one of the best graduate degrees one can acquire.⁶ We do not have much control over the stormy weather we are experiencing. However, we are equipped for the journey to our destination. Remember, storms cannot last forever. Take courage mates; there is a shore.

6. See STEVE JOBS: THE LOST INTERVIEW (Magnolia Pictures 2012). Steve Jobs once said, "I don't think anybody should be a lawyer, but going to law school can be useful because it teaches you how to think in a certain way."