

# Silicon Flatirons



A Center for Law, Technology, and Entrepreneurship at the University of Colorado

*Roundtable Series on Entrepreneurship, Innovation,  
and Public Policy\**

## Ongoing Innovation in Legal Education

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## Introduction

The impact on the global economy of the financial services meltdown in 2008 and the resulting “Great Recession” can only be described as far reaching. All industries, including the legal services industry, were affected, with the pressures for cost containment causing profound disruption and changes in virtually every segment of the legal services market.

In the wake of the Great Recession, corporate legal departments saw intensified pressure not only to do more with less, but also to experiment with new approaches for acquiring and delivering legal services. This dynamic, in turn, affected large law firms dramatically, with clients now sending less work to them and placing greater constraints on how that work gets done and billed for. In turn, law firms have undergone significant consolidation and have tightened their hiring practices dramatically.

Law schools, who train the lawyers of the future, likewise felt the impact. With reduced law firm hiring, law school graduates saw reduced demand for their services, all while tuitions and debt levels continued to rise. Law school applications, not surprisingly, plummeted.

In the face of (and because of) these changes, certain segments of the legal services industry continue to grow. Alternative legal service providers, such as eDiscovery vendors and Legal Process Outsourcers (“LPOs”), have prospered during this period, as have Legal Operations groups within corporate legal departments.

Three years ago, Colorado Law launched an initiative to analyze these trends and to better define the skills and competencies that lawyers require to deliver value to clients in the current era. As part of this initiative, Colorado Law regularly convenes roundtables where leaders from all segments of the legal services industry, including managing partners, general counsel, alternative legal service provider CEOs, and academics share their observations of the state of the industry and their thoughts as to where things are headed.

The first roundtable occurred in 2012 (the “2012 Roundtable”).<sup>2</sup> Discussion at this roundtable focused heavily on the fact that corporations were moving away from the traditional model of acquiring bundled legal services from law firms in favor of disaggregating large legal projects (e.g., M&A, litigation) into their constituent components (e.g., negotiation, drafting, diligence, discovery, trial) and assigning each component to the most efficient provider. The 2012 Roundtable participants observed that this trend required lawyers to develop new skills in order to be effective, which, in turn, required law schools to re-evaluate their curriculums.

The second roundtable occurred in 2013 (the “2013 Roundtable”).<sup>3</sup> The 2013 Roundtable took the next step of starting to explore the competencies required by lawyers in the new normal and what law schools could do to teach them. This roundtable did not produce a granular list of competencies, but did yield general agreement on two points. First, lawyers in the new normal require a foundation of traditional doctrinal legal skills that is supplemented with a combination of non-traditional skills (e.g., project management), domain expertise (e.g., finance and accounting), and professionalism (e.g., a creative problem-solving mindset). Second, law schools should conduct experiments in this area to determine whether and how these new competencies can be taught. In 2014, Colorado Law held a follow-up

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<sup>2</sup> THERESE KERFOOT, SILICON FLATIRONS CTR., LAW 2.0: THE NEW CONTINUUM OF LEGAL EDUCATION (2012), available at <http://www.siliconflatirons.com/documents/publications/report/201210Law2.0Report.pdf>.

<sup>3</sup> DAVID BENNETT, SILICON FLATIRONS CTR., THE NEW NORMAL AND THE CHALLENGE FOR LEGAL EDUCATION (2014), available at <http://www.siliconflatirons.com/documents/publications/report/201404NewNormalReport.pdf>.

discussion with local employers—captured in a short report—to discuss more precisely what core competencies were most significant to them.<sup>4</sup>

Colorado Law’s most recent roundtable occurred on January 7, 2015 (the “2015 Roundtable” or “Roundtable”). As discussed below, the 2015 Roundtable participants observed a variety of changes since 2013 in a number of areas, including (1) shifts in legal hiring practices in certain sectors, (2) further definition of the skills and competencies lawyers require to succeed in the current environment, and (3) successful experiments within law schools to train their students for the growth areas within the legal services market. This report discusses each topic in turn.

## I. The Market for Lawyers in 2015

Client needs and demands drive the market for lawyers, and 2015 is no exception. The Roundtable participants observed that, if anything, clients’ demands for legal services that are delivered in scalable, efficient manners has further intensified. The various categories of legal service providers – law firms, in-house legal departments and alternative legal service providers – have responded to this demand in differing ways.

### A. Law Firms

In general, Roundtable participants felt that law firms by and large have not responded proactively to the current market circumstances. This is true with respect to both the law firms’ service offerings and their lawyer hiring practices.

#### 1. Service Offerings

Law firms traditionally have offered clients a full range of services that encompass both non-recurring, highly complex work (e.g., M&A, high-stakes litigation) and routine work that may be recurring (e.g., routine commercial agreements, leases) or part of a larger, non-recurring project (e.g., discovery, due diligence). Historically, junior lawyers performed this less complex work, gaining valuable insights into the broader practice of law.

Catalyzed by the financial pressures stemming from the Great Recession, clients increasingly refuse to pay for having lawyers perform the lower-complexity tasks on a bespoke basis. Rather, they insist that these tasks be commoditized and handled using industrial process and a mix of automation and arbitrated labor, much of which resides offshore and/or does not possess a JD.<sup>5</sup> As a general rule, law firms, and “BigLaw” in particular, have exited from this segment of the market and have curtailed entry-level hiring as a result.<sup>6</sup>

#### 2. Hiring Practices

Roundtable participants observed that law firm hiring – especially in Big Law – has largely mirrored the firms’ business strategy of focusing on bespoke work and increasingly abandoning the commodity work

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<sup>4</sup> KAIT HILDNER, UNIV. COLO. LAW SCH., ROUNDTABLE DISCUSSION ON CORE COMPETENCIES FOR EFFECTIVE LAWYERS (2014), *available at* <https://www.colorado.edu/law/sites/default/files/CompetenciesRoundtable2014Final%20.pdf>.

<sup>5</sup> To be more precise, these trends were developing before the Great Recession, but have accelerated since then. *See, e.g.,* RICHARD SUSSKIND, THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES (rev. ed. 2010).

<sup>6</sup> There are a few notable exceptions where firms have invested in the expertise and tools necessary to deliver these types of services efficiently. *See, e.g.,* Stephanie Francis Ward, *Making it Lean: Lisa Damon, Seyfarth Shaw*, LEGAL REBELS (Sept. 21, 2011), [http://www.abajournal.com/legalrebels/article/making\\_it\\_lean\\_lisa\\_damon\\_seyfarth\\_shaw](http://www.abajournal.com/legalrebels/article/making_it_lean_lisa_damon_seyfarth_shaw).

to others. With less commodity work, law firms see less of a need for junior lawyers and have reduced entry-level hiring.<sup>7</sup> This decline is starkest among law firms with 100 lawyers or more who have reduced hiring for these positions by nearly one-third in the past seven years.<sup>8</sup> This decline in hiring has been accompanied by a trend to, in the words of one Roundtable participant, “hire people who look like them.” For those who are looking to land a traditional Big Law job, being on law review at an elite law school still trumps having a less elite degree and strong new normal skills like data analysis, project management and technical fluency.<sup>9</sup>

The Roundtable participants also observed that exceptions exist to this general trend in law firm hiring. For example, Kendall, Koenig & Oelsner, LLP, a boutique corporate law firm in Colorado recently moved away from its practice of hiring only laterals from Big Law to experimenting with hiring recent law grads who had specialized training in the growth areas and experience working in an in-house legal department.

Despite these and other exceptions, and the fact that law firm hiring has rebounded somewhat, the general practice among law firms continues to be to hire comparatively fewer new associates with ever more brilliant traditional credentials.

## B. Corporate Law Departments

### 1. Legal Services

Corporate law departments present a very different picture from the law firms, both in terms of the services they acquire and/or deliver in house and how they hire. Ever since the Great Recession (and even before), progressive law departments have led the charge in changing the way that legal services get delivered. They have done so in two significant ways.

First, they have insourced a number of tasks that they used to outsource to law firms. Law firms see this as a highly effective means of reducing cost, prompting them to increase their internal hiring significantly.<sup>10</sup> But many law departments go even further, reshaping the way that the insourced tasks get handled, applying industrial process, automation and the use of non-lawyers and/or offshore resources.

Roundtable participant Cisco represents one such example. As explained by Steve Harmon, a Cisco Legal VP, Cisco has reengineered a number of its processes to enable Cisco’s lawyers to avoid spending time on administrative and other low-value tasks. Cisco supports these efforts with automation tools<sup>11</sup> and a knowledge management portal that enables Cisco’s lawyers to benefit promptly from knowledge generated by others.<sup>12</sup> When Cisco hires outside counsel, it does so through a clear strategic lens of which

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<sup>7</sup> Press Release, Nat’l Ass’n for Law Placement, Entry-level Law Firm Recruiting Remains Mostly Flat (Feb. 19, 2014), available at [http://www.nalp.org/march14\\_perspectives\\_pressrel](http://www.nalp.org/march14_perspectives_pressrel).

<sup>8</sup> Bernard A. Burk, *What’s New About the New Normal: The Evolving Market for New Lawyers in the 21st Century*, 41 FLA. ST. U. L. REV. 541, (2014).

<sup>9</sup> See *Ranking the Go-To Law Schools*, NAT’L LAW JOURNAL (Feb. 24, 2014), <http://www.nationallawjournal.com/id=1202643450571>.

<sup>10</sup> ALTMAN WEIL, 2014 CHIEF LEGAL OFFICER SURVEY (2014), available at [http://www.altmanweil.com/dir\\_docs/resource/b554f3f5-c106-4847-bdca-57bcfd585378\\_document.pdf](http://www.altmanweil.com/dir_docs/resource/b554f3f5-c106-4847-bdca-57bcfd585378_document.pdf) (43% of law departments plan to increase their hiring during coming 12 months due to cost savings generated). See also KERFOOT, *supra* note 2 (anecdotal evidence of this phenomenon).

<sup>11</sup> Forget Waiting for Legal; Why Big Bets Won the Race, METRO. CORPORATE COUNSEL (Mar. 1, 2009, 1:00 AM), <http://www.metrocorpocounsel.com/articles/11076/forget-waiting-legal-why-big-bets-won-race>.

<sup>12</sup> Chris DiMarco, *The Practical Logic of Advancing the Legal Department*, INSIDE COUNSEL, Apr. 2014, at 46-47.

firm will provide the best value for the specific task and employs billing models that align the firm's interests with Cisco's.<sup>13</sup>

Second, law departments increasingly have moved tasks from law firms using traditional bespoke methods, to alternative legal service providers. For example, Roundtable participant NetApp has partnered closely with Elevate Services, a leading legal services organization, to provide NetApp with process improvements and to handle commodity tasks at lower cost.<sup>14</sup> Like Cisco, NetApp applies these same principles to managing outside counsel, but with a somewhat different twist. NetApp partners closely with Sky Analytics to measure their counsel's efficiency using hard data.<sup>15</sup>

In 2013, a small but significant number of law departments were driving this sort of change. Roundtable discussion indicates that this number grew significantly by 2015.

## 2. Hiring

Like law firms, law departments' hiring practices have followed the broader business strategy. In the case of law departments, however, the strategy focuses not on doing bespoke work but on handling a wide variety of work – much of which is a commodity – as efficiently as possible. Roundtable participants identified two key developments spawned by this strategy.

First, the large law departments have evolved to the point that they commonly have a “legal operations” function that is in charge of driving the adoption of industrial process, automation, data analysis, and law firm management across the department. The legal operations role requires a unique skill set that combines traditional legal skills, financial and analytical skills, business acumen, and technology savvy. As discussed more fully below, neither law schools, law firms nor law departments have trained lawyers in these areas.<sup>16</sup> People with these skill sets are largely JD/MBAs, self-taught lawyers, or some combination thereof. They are in short supply and high demand.

Second, law departments at companies of all sizes increasingly recognize that their lawyers need to be “ops savvy” even if they work outside of the legal ops group. One Roundtable participant gave the example of how an in-house lawyer who handles contracts for the sales organization will add significantly greater value to the company if she understands how her approach to negotiations impacts contract closure cycle times than a lawyer who simply understands legal issues in a vacuum. Having the awareness to highlight process improvements that could accelerate contract closure times adds even greater value.

These factors appear to have created a possible tipping point in law department hiring protocols. Law departments have recognized for at least several years that law firms generally are not equipped to help them with these sorts of issues. This means not only that law departments need to bring this work in house, but also that law departments need to reconsider their approach to hiring.

Traditionally, law departments, especially at large companies, have hired out of law firms, expecting the law firm to have trained the young lawyers on how to practice law. Now, law departments appear to be reaching the conclusion that, with the dramatic shift in how legal services get delivered and with the law firms' increasing focus on bespoke legal services, law firms no longer provide lawyers with the training

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<sup>13</sup> *Q&A Interview: Evolution is Happening in Law Firm Pricing, Says Cisco's Harmon*, LEGAL EXEC. INST. (Nov. 18, 2014), <http://legalexecutiveinstitute.com/qa-with-ciscos-steve-harmon-evolution-happening-in-the-legal-industry-on-pricing/>.

<sup>14</sup> Adele Nicholas, *NetApp: Evolving Legal Ecosystem*, INSIDE COUNSEL, Sept. 2013, at 38.

<sup>15</sup> *Id.*

<sup>16</sup> *Infra* Part II.

necessary to succeed in a growing number of roles. This is especially true with regard to legal operations roles.

Mark Chandler, General Counsel of Cisco, noted that throughout his career he has made a practice of hiring only out of law firms. Recently, however, he has changed his mind on this score with respect to a number of roles within his department on the ground that those roles demand skills that law firms do not teach. As a result, he is considering hiring recent graduates from law school programs that do provide this sort of training. He further observed that others in the tech industry, including HP and IBM, now hire directly from law schools, presumably for similar reasons.<sup>17</sup>

This apparent nascent shift in hiring practices by law departments does not appear to be limited to large law departments. Roundtable participant Nick Budor, Associate General Counsel of Ciber<sup>18</sup> described his recent search for a “legal department COO” to manage his department’s legal processes. Given the nature of the position, he focused primarily on skill sets and aptitudes than on law firm experiences and ended up hiring a relatively junior candidate. In addition, as discussed in more detail in Part III.A below, companies ranging from very small to huge actively are participating in internship programs, like Colorado Law’s Tech Lawyer Accelerator, that imbue law students with these sorts of skills.

This represents a dramatic shift from the status quo at the 2013 Roundtable and has significant potential implications going forward.

## C. Alternative Legal Service Providers

Alternative legal service providers represent the fastest-growing segment of the legal services market place. This segment includes ediscovery vendors, legal service organizations that provide everything from legal process outsourcing to ebilling analytics, and staffing agencies. This segment of the legal services market, almost by definition and necessity, has been out in front of the others in terms of evolving the way that legal services get delivered and how they hire.

### 1. Legal Service Model

Alternative legal service providers owe their existence to the fact that they use a different service delivery model than law firms. They traditionally have followed one of two models, either focusing on (i) a specific, narrow area where technology or process skills predominate over legal ones<sup>19</sup> or (ii) serving predominantly as a staffing agency that provides on-shore or off-shore lawyers to handle relatively routine tasks at competitive prices, especially where those tasks are short-term in nature.<sup>20</sup> In recent years, however, these providers have expanded their offerings to include a comprehensive array of services such as contract negotiation, template and playbook development, and managing the review and analysis of law firm billings to the client. These providers, as a whole, have delivered compelling economics and this sector of the legal services industry has more than doubled in about a decade, with an annual growth rate of about 6%.<sup>21</sup>

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<sup>17</sup> Debra Cassens Weiss, *HP Decides to Hire New Law Grads Rather than Law Firm Associates*, AM. BAR. ASSOC. JOURNAL (June 21, 2010, 10:29 AM), [http://www.abajournal.com/news/article/hp\\_opts\\_for\\_training\\_its\\_own\\_in-house\\_lawyers\\_hires\\_four\\_grads](http://www.abajournal.com/news/article/hp_opts_for_training_its_own_in-house_lawyers_hires_four_grads).

<sup>18</sup> Between the Roundtable and the publication of this Report, Mr. Budor left Ciber and started his own business.

<sup>19</sup> Examples here would include ediscovery vendors, contract management software tools, etc.

<sup>20</sup> This is clearly a generalization. For example, a number of Indian LPOs will say, with justification, that process expertise represents a major component of their value-add on top of arbitrated labor.

<sup>21</sup> Rachel Zahorsky & William D. Henderson, *Who’s Eating Law Firms’ Lunch?*, AM. BAR. ASSOC. JOURNAL (Oct. 1, 2013, 10:30 AM), [http://www.abajournal.com/magazine/article/whos\\_eating\\_law\\_firms\\_lunch](http://www.abajournal.com/magazine/article/whos_eating_law_firms_lunch).

## 2. Hiring

With their rapid growth, alternative legal service providers have become increasingly significant employers of law school graduates. Alternative legal service providers often are run by non-lawyers and their value proposition relies as much on process and technology as it does on traditional legal knowledge. Accordingly, when hiring lawyers, these employers have placed far more emphasis on the candidates' demonstrated skills – especially in non-traditional areas – than they have on traditional measures like class rank and law review. Law school graduates who have the skills relevant to these providers, and who are comfortable with the professional hierarchies and growth paths associated with entrepreneurial companies instead of law firms, are in demand.

Roundtable participant Dan Katz, Associate Professor at Michigan State,<sup>22</sup> explained the ease with which one of his students obtained employment in this sector. The student had a strong background in process and a fluency with technology. In addition to his resume, the student also assembled a portfolio of his work, much like what engineers post on GitHub. For non-law firm employers, and a few law firms that break from the legacy model, such a portfolio is valued more than the law school attended, law school GPA, and an interview focused on whether the person is likable. In the case of Google, for example, they have related that their “data crunching” tells them that GPA is “worthless as a criteria for hiring.”<sup>23</sup>

Somewhat ironically, the main barriers toward placing more law graduates with alternative legal service providers appear to be on the side of the law schools and the law students. Law schools generally do not train their students on many of the skills required by these employers and law school career service organizations typically do not focus on this segment of the market.

Law students often do not consider these types of roles to be on par with working in a traditional legal job – even one with a small law firm. This is unfortunate. As Pratik Patel, VP of Consulting Services at Elevate Services, observed, many law students without top credentials are finding themselves in legal consulting roles by default. Instead of realizing that they have won the lottery in terms of having an opportunity to make a name for themselves in a wide-open, growing market, they lament the fact that they are not pursuing the traditional path.

## II. Skill Sets Required in 2015 and Beyond

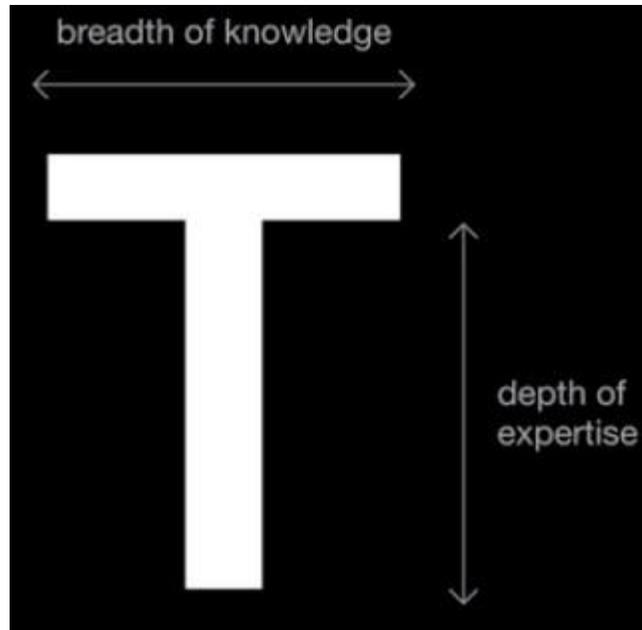
The 2013 Roundtable produced consensus that a significant number of legal jobs, especially those with in-house legal departments, required skill sets beyond those taught in a traditional law school curriculum. There was less agreement about the particular skills and competencies required, but areas mentioned by multiple participants included process management, business acumen, and digital literacy. The 2015 Roundtable confirmed that these skillsets are highly valuable in today's market, and multiple participants identified these sorts of skills as things they wish that they had learned before beginning their careers.

Dan Katz kicked off the discussion of required skill sets by explaining the concept of a “T-shaped” lawyer. IBM invented this concept in the 1990s when it looked for a better way to evaluate workers in a rapidly changing digital economy that requires workers to have both deep skills and rapid agility. Accordingly, IBM looked for deep skills in one area (the vertical part of the T) and broad knowledge covering multiple relevant areas (the horizontal part of the T).

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<sup>22</sup> Between the Roundtable and the publication of this Report, Professor Katz moved from Michigan State University to the Illinois Institute of Technology-Chicago Kent School of Law.

<sup>23</sup> Adam Bryant, *In-Head Hunting, Big Data May Not Be Such a Big Deal*, N.Y. TIMES, June 20, 2013, at F6.



The 2015 Roundtable participants widely agreed that today’s lawyers need to be “T-shaped” in order to be effective. This started with a reconfirmation of the 2012 Roundtable’s conclusion that a deep knowledge of traditional legal skills gained from doctrinal legal studies -- knowledge of the law, legal reasoning, critical analysis, persuasive advocacy, etc. – remain “table stakes” for anyone who wants to be effective as a lawyer.

There was, however, a strong feeling among many participants that law schools emphasize these skills to the point of harming the students’ ability to develop into T-shaped lawyers. For example, Mark Chandler observed that while law school did a good job of teaching him how to “think like a lawyer,” he really would have benefitted from additional training about how to “think like a client.” Multiple participants embraced that comment.

Bill Mooz emphasized that the vertical line of the T also contains the practical skills necessary to transform doctrinal knowledge into a product that clients actually value. He gave the example of how a transactional attorney who knows absolutely everything about contract law will be useless to a client if he doesn’t also know how to draft a contract. Law firms traditionally provided training on these skills, but clients increasingly are unwilling to underwrite this model. In recognition of this fact, the ABA now requires that law students obtain at least six credit hours of experiential learning before graduating law school.<sup>24</sup>

The Roundtable participants exhibited a surprising degree of agreement around what skills comprise the horizontal line of the T. For lawyers who want to work in a business environment, multiple participants consider the following contextual skills to be significant: finance and accounting, technical literacy, teamwork, project management, and process engineering.

The level of agreement here stemmed largely from everyone’s recognition that there isn’t a single T that applies to every situation. While all lawyers need contextual skills and legal skills, the exact elements of those skills will vary to differing degrees by industry and nature of practice. For example, the T for someone who wants to serve as a business lawyer in the tech industry may include course work in

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<sup>24</sup> ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS § 303 (2014).

business law and IP subjects, transactional drafting and negotiation, and contextual skills in the areas of finance, accounting, project management and computer science. Whereas the T for a lawyer who wants to have a family law practice may include course work in domestic relations, adoption, and trusts and estates and contextual skills in the areas of psychology, mediation and a foreign language.

### III. Teaching Contextual Skills

As mentioned above, a number of the participants in the 2013 Roundtable expressed uncertainty regarding whether certain contextual skills can be taught and, if so, how to do it. All participants in that roundtable, however, agreed that law schools should conduct experiments in this area and determine what may be possible.<sup>25</sup> By January 2015, a number of these experiments had occurred,<sup>26</sup> with some interesting results.

#### A. Representative Experiments

The 2015 Roundtable delved into a number of these recent experiments with teaching law students contextual skills. These experiments each focused on somewhat different contextual skills and used a somewhat different teaching methodology.

##### 1. Michigan State – Reinvent Law

The ReInvent Law Laboratory at Michigan State University School of Law (the “Lab”) focuses on producing “human capital that better supports the current and future trends of the legal job market.” Approximately two dozen students participate in the Lab annually, identifying law-related problems and solving them with technology. The Lab also includes courses in Entrepreneurial Lawyering, Lean, Six Sigma and Design Thinking for Lawyers, Legal Analytics, Virtual Law Practice, Legal Project Management, and Quantitative Methods for Lawyers.

The Lab does not include a formal internship program but it does provide substantial assistance to students in how to market themselves in the new normal. Dan Katz explained how he and others at the Lab teach students “to become their own media company” to better educate prospective employers about their unique skillsets. Katz advises his students to supplement their resumes with portfolios of their completed work and to display that portfolio on a personal website created using a low-cost, web-development service such as Squarespace. The examples he presented at the Roundtable were impressive.<sup>27</sup>

##### 2. Indiana Maurer School of Law

William Henderson has taught a variety of courses at the University of Indiana Maurer School of Law that are designed to provide students with contextual skills. These courses have covered deliberative leadership, professionalism, and project management, and employ a variety of techniques borrowed from the business world, including the use of 360 evaluations. In keeping with his long-standing belief the

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<sup>25</sup> This recognition is part of a broader trend across higher education generally. *See* Brandon Busteded, *The Real Disruptive Innovation in Education*, GALLUP (Dec. 1, 2014), <http://www.gallup.com/businessjournal/179564/real-disruptive-innovation-education.aspx>.

<sup>26</sup> John Schwartz, *This is Law School? Socrates Takes a Back Seat to Business and Tech*, N.Y. TIMES, Aug. 3, 2014, at ED 24.

<sup>27</sup> *Eg.*, ANDY NINH, <http://www.andyninh.com> (last visited June 8, 2015); R. AMANI SMATHERS, <http://www.amanismathers.com/#about> (last visited June 8, 2015); KAREN FRANCIS-MCWHITE, <http://about.me/karenfrancismcwhite> (last visited June 8, 2015); PATRICK ELLIS, <https://patellis.wordpress.com> (last visited June 8, 2015).

collaboration between schools will further legal education, Professor Henderson serves as a member of the advisory board for Colorado Law’s Tech Lawyer Accelerator – a program that will include several Indiana students in 2015.

### 3. Colorado Law – Tech Lawyer Accelerator

Colorado Law piloted its Tech Lawyer Accelerator (“TLA”) during the summer of 2014. The program focuses on training students to deliver value more quickly to clients in the tech industry. The program begins with a four-week boot camp that concentrates on contextual skills, using a curriculum that was developed with significant input from in-house counsel and members of the Chief Legal Operations Council (“CLOC”) in particular.

#### 2015 TLA Boot Camp Curriculum

Week & Topic	Exercise	Technology Focus & Training	Subjects Covered	Mentoring	Deliverable
1. Law Department Transformation	Transform segment of a law department	PowerPoint	<ul style="list-style-type: none"> <li>• Law department metrics</li> <li>• Legal cost drivers</li> <li>• Law department practice groups</li> <li>• Presentation skills</li> </ul>	½ day with expert	Present and defend proposal to panel of executives
2. Legal Budgeting	Develop budget for segment of a law department	Excel & IT Stack	<ul style="list-style-type: none"> <li>• Finance &amp; Accounting</li> <li>• Leadership</li> <li>• IT Industry products &amp; profitability drivers</li> </ul>	½ day with expert	Present and defend budget request to panel of executives
3. Legal Process Optimization & Automation	Develop project plan, change management plan & ROI for automating a legal process	Excel	<ul style="list-style-type: none"> <li>• Lean/Sigma for lawyers</li> <li>• Change management</li> <li>• Finance &amp; accounting</li> <li>• Leadership</li> <li>• IT Industry products &amp; profitability drivers</li> </ul>	½ day with expert	Present and defend project plan and ROI calculation to panel of executives
4. Contracting	Redline NDA & License Agreement	Word	<ul style="list-style-type: none"> <li>• Contract Drafting</li> <li>• Anatomy of NDA &amp; License Agreement</li> <li>• Working with checklists</li> </ul>	Team & individual feedback	Redlines of NDA and License Agreement

The curriculum emphasizes team-based exercises, technical training and business fundamentals. Over 40 current and former industry executives served as instructors in the 2014 pilot.<sup>28</sup>

After completing the boot camp, 1L students intern with tech companies for ten weeks over the remainder of the summer. 2L students also have the option of a seven-month internship that also includes the fall semester of their 3L year. These students then return for their final semester and graduate with their class. By taking advantage of this option and the option to complete all course work in five semesters, students may lower the cost of attending law school significantly.

### 4. Other Initiatives

Experiments in educating students on contextual skills may occur within classes as well as part of broader programs. For example, Roundtable participant Mike Madison from University of Pittsburgh builds client-oriented assignments into his intellectual property and contracts classes, requiring his students to use legal tools from the class to solve a hypothetical real-world problem. To buttress what he does in the class, Madison also leads the Innovation Practice Institute at Pitt, which features partnerships with local institutions such as Carnegie Mellon University and start-up accelerators. Through these opportunities business-passionate law students can work with real clients and businesses to receive additional contextual experience while still in law school.

<sup>28</sup> SILICON FLATIRONS TECH LAWYER ACCELERATOR, <http://www.colorado.edu/law/tla> (last visited June 8, 2015).

## **B. Results**

Law schools can be said to operate in a two-sided market with employers on one side and students on the other. In such an environment, Roundtable participants agreed that the best metric for measuring success is the quality and quantity of employment outcomes for their students. To that end, if a program like any of the experiments noted above truly enables students to deliver more value faster, employers will hire them into quality jobs at a greater rate than students who do not have this training. This employer demand, should, in turn, lead to high student demand for law schools that provide such opportunities.

Obtaining statistically relevant data around employment outcomes will require several years. With most of these experiments being no more than a year or two old, this data is still being developed. However, a number of preliminary data points, while not yet statistically relevant, cause reason for optimism.

### **1. Student Demand and Satisfaction**

Student demand for courses teaching practical and/or contextual knowledge commonly exceeds supply, with courses such as transactional drafting, negotiation, project management, etc. routinely being oversubscribed. Programs such as the Lab and the TLA also are in high demand. For example, student applications for the TLA have exceeded the available slots by a ratio of approximately 2.5:1 even though students receive no academic credit for the program.

Student participants in these programs also have expressed their satisfaction with the programs in other ways. For example, 100% of the students in the 2014 pilot of Colorado Law's Tech Lawyer Accelerator said that they would recommend the program to a friend.

### **2. Employer Satisfaction**

Several indicators of employer satisfaction have emerged during the short time that these programs have been in existence. First, 100% of the employers participating in the 2014 TLA who were invited back signed up to hire interns from the 2015 program. Indeed, the Roundtable participants who hired interns from the 2014 program roundly praised their interns for their advanced level of contextual skills.

For example, Helen Parker, General Counsel at Wayin, pointed out that the TLA is "exactly the type of thing she wished she had when going through law school," and noted that it prepared her intern, Otto Hanson, to "immediately work on high-end projects." David Huberman, General Counsel at Rally Software, echoed this sentiment, stating that Greg Garcia, Rally's intern, "provided value from the get-go." Nick Budor, Associate General Counsel at Ciber observed that his intern from the TLA was head and shoulders above an intern from another school who hadn't had the benefit of this sort of training.

Cisco's Roundtable representatives also had specific thoughts about the quality of the three TLA interns Cisco hosted. Steve Harmon recounted how a TLA intern made various suggestions for process improvements -- something that Harmon admitted he could not fathom doing while he was an intern. Mark Chandler added how surprised he was when an intern with a non-technical background prior to the TLA was able to draft a highly complex handbook on cybersecurity standards that one of Cisco's lead public policy attorneys disseminated across the company as a "must read."

Second, a number of employers have expressly sought students out of these programs for longer term opportunities. For example, Dan Katz recounted multiple opportunities whereby employers sought out students who had participated in the Lab.

Finally, these employer actions are not limited to corporate legal departments or alternative legal service providers. Kendall, Koenig & Oelsner ("KKO"), a Colorado boutique corporate firm, recently developed a program to recruit TLA graduates. Beginning the summer of 2015, KKO have a student who completed

the TLA at the end of his first year working with them full time for seven months. KKO took this action because of the training that TLA students get in the boot camp and the experience they have working with a corporate legal department. Ben Oelsner explained “we used to hire only laterals because we couldn’t justify billing clients for new hire training. Programs like the TLA change that equation.”

## IV. Prospects for Further Evolution in Legal Education

Despite the changes in the legal services market described above, the norm in many segments of the legal services market continues to be decidedly old school. The programs described above represent the exception rather than the rule in legal education. This raises the question of where do things go from here? Does the trend toward teaching contextual skills follow the path of the Betamax to oblivion or does it achieve what Bill Henderson described as “restarting the legal market?”

Elise Miller, Vice President of Research Programs at Access Group and a former education specialist with the Bill & Melinda Gates Foundation, noted that the answer to this question may well depend upon the extent to which existing structural barriers can be addressed. Roundtable participants widely agreed that structural barriers to change exist within virtually all segments of the legal services industry and have impacted the pace of change. Some of the more significant barriers are described below.

### A. In-Grained Hiring Tendencies

Tom Sharbaugh, partner at Morgan Lewis, noted that people have a natural tendency to “hire people like themselves.” Given that most law firm and legal department hiring gets done by relatively senior lawyers who grew up in a different era this causes many legal employers to emphasize credentials that may be of dated relevance rather than strong contextual skills.<sup>29</sup> As an example of this, one participant recounted a recent experience where a client requested that one of its law firms hire a student with particularly strong contextual skills for the purpose of having that student work on the client’s matters only to be told that this would not be possible because the student was not on law review.<sup>30</sup> Similarly, law schools routinely prioritize Supreme Court Clerkships over success in the professional world when hiring faculty. Changing these tendencies will not be easy.

That said, Roundtable participants noted a variety of examples of change. Dan Katz observed that alternative legal service providers regularly seek out graduates from his program with strong contextual skills with less regard to more traditional credentials. Given that alternative legal service providers are growing rapidly and law firms are remaining flat at best, this crack in the traditional practices could open up significant opportunities for tens of thousands of law grads who don’t fit the profile required by Big Law.

Similarly, corporate legal departments appear to be breaking from the traditional practice of hiring only from law firms.<sup>31</sup> This practice seems likely to continue as the legal departments place an increasing focus on operational skills, both within their legal ops groups and more broadly. With law department hiring on the rise, this stands to increase opportunities for law grads with contextual skills even further.

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<sup>29</sup> See David Lat, *An Inside Look at Sullivan & Cromwell’s Recruiting Process*, ABOVE THE LAW (Sept. 22, 2011, 6:46 PM), <http://abovethelaw.com/2011/09/an-inside-look-at-sullivan-cromwells-recruiting-process>.

<sup>30</sup> One can argue that the traditional principal indicator of quality – class rank – may actually be at odds with strong contextual skills. One aspect of being T-shaped includes the ability to work effectively in environments where people do not report to you directly and teamwork is key. Class rank, however, is a zero sum game and success at prevailing over all of one’s classmates does not necessarily indicate an ability to work effectively in today’s professional environment.

<sup>31</sup> See *supra* Page 7.

Finally, even a small number of law firms, such as KKO, are starting to look at hiring differently.

## B. Law School Governance Structures

Law schools are governed largely by their multiple tenured faculty members. This means that driving change requires driving broad consensus, rather than just nimble maneuvering by a small executive team. The challenges this model presents to injecting the teaching of contextual skills into the curriculum have been well documented<sup>32</sup> and have been felt directly by a number of the Roundtable participants.

These governance structures, however, are not immune to market pressure and law schools are starting to change, albeit slowly, in a number of significant ways. For example, over 60 ABA-accredited law schools now offer degrees other than JDs or LL.M.s, many of which require only one year of study and place less emphasis on a pure diet of doctrinal courses.<sup>33</sup> In 2013, over 1,700 students were enrolled in such programs,<sup>34</sup> representing an important source of revenue to law schools in an era where enrollment in traditional JD programs has declined by 30% in the past four years.<sup>35</sup>

While still only a fraction of the total curriculum, courses focusing on contextual skills are increasing. Roundtable participants involved in delivering these courses generally reported that while getting faculty accreditation and support for these courses can be difficult, they increasingly succeed in getting courses accredited as long as they do not require uninterested faculty to participate in delivering them.

## C. Student Attitudes

Like the lawyers they wish to become, a significant number of students also make their purchasing decisions based on criteria that may be outdated in today's market. Perhaps most significant among these criteria is the school's *U.S. News & World Report* ranking. It is true that schools at the very upper echelon of the U.S. News ranking (say top 15) have the strongest employment outcomes, especially with regard to law firm employment. But as a widespread indicator of delivering a return on the student's investment of time and tuition dollars, relying solely upon U.S. News ranking is a flawed concept for several reasons.<sup>36</sup>

First, as shown in the chart below, students attending schools other than the very top echelon increasingly find relevant post-graduate employment outside of law firms.

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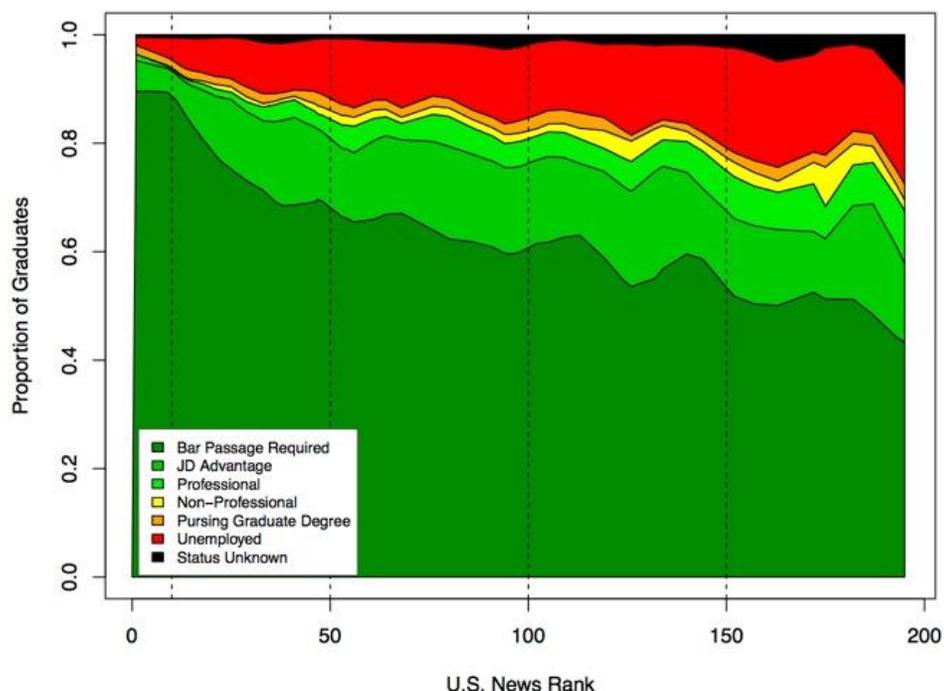
<sup>32</sup> See, e.g., BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* (2012).

<sup>33</sup> Programs By Category, AM. BAR. ASSOC., [http://www.americanbar.org/groups/legal\\_education/resources/llm-degrees\\_post\\_j\\_d\\_non\\_j\\_d/programs\\_by\\_category.html](http://www.americanbar.org/groups/legal_education/resources/llm-degrees_post_j_d_non_j_d/programs_by_category.html) (last visited June 8, 2015).

<sup>34</sup> *Id.*

<sup>35</sup> Elizabeth Olson & David Segal, *A Steep Slide in Law School Enrollment Accelerates*, N.Y. TIMES, Dec. 18, 2014, at B3.

<sup>36</sup> The value of U.S. News rankings has been questioned broadly. See David Segal, *Is Law School a Losing Game?*, N.Y. TIMES, Jan. 9, 2011, at BU1.



### Employment Outcomes by School Rank<sup>37</sup>

For these students, future success seems more likely to come from receiving an education that includes solid contextual skills than simply attending a higher-ranked school.

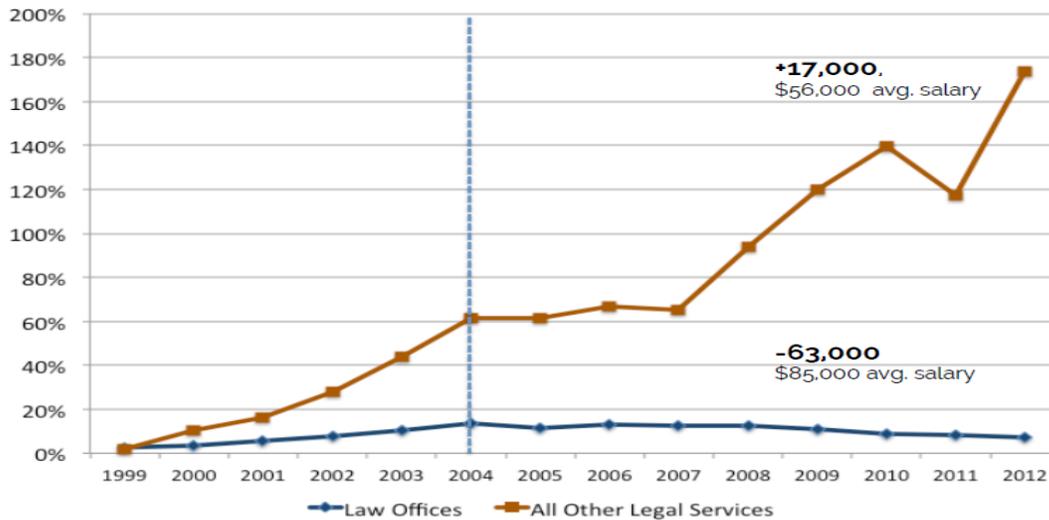
Second, all students, including those attending the highest-ranked schools, may wish to consider the relevant dynamics of today's legal services market. While law firms represent the traditional gold standard of legal employment out of law school, that segment of the legal services market is, at best, flat. By contrast, corporate legal departments are growing and alternative legal service providers are booming.

As a general rule, growing enterprises offer better prospects for advancement than flat or shrinking ones. The growing enterprises in the legal services market generally care less about pedigree than law firms and more about performance. Many students could logically conclude that their prospects for remunerative long-term employment are better if they opt for the most relevant education possible and a growth track in a new segment of the market than for attending a school a couple higher slots on the rankings chart and trying to leverage that into a partnership position in a consolidating segment of the market. Market data, as shown below,<sup>38</sup> supports this prospect.

<sup>37</sup> Chart courtesy of William Henderson.

<sup>38</sup> Chart courtesy of William Henderson.

Change in Legal Industry Employment, 1998-2012



Roundtable participants observed some signs that student preferences may be changing – at least among those students who are not in the running for slots at top-15 schools. For example, Bill Mooz noted that an increasing number of applicants to the 2015 TLA reported that they came to Colorado Law because of these sorts of programs. Roundtable participant Josh Pens, a 2L at Colorado Law, bolstered this notion by pointing out that when he was choosing law schools he actively considered the extent to which schools were upfront about the changes the legal job market was undergoing and developing proactive solutions as opposed to passively assuming that the traditional job market would simply return to past levels on its own. Nick Budor summed things up by observing that if certain types of programs succeed in generating quality long-term employment outcomes, students will demand them.

#### D. Regulatory Barriers

The legal services industry remains heavily regulated in the United States.<sup>39</sup> Perhaps the most impactful regulator is the American Bar Association (“ABA”), which oversees a spectrum of activity ranging from what constitutes the authorized practice of law to whether a law school is deemed accredited. The ABA’s practices in these areas have been criticized as stifling innovation, reducing competition and raising cost.<sup>40</sup>

To its credit, the ABA has responded to these criticisms with a series of reforms. While these reforms do not go nearly as far as many would like, they do signal at least some awareness of the importance of contextual skills and allowing schools to experiment in these areas without putting their accreditation at risk.<sup>41</sup> Indeed, the ABA now requires students at ABA-accredited schools to complete at least six credit

<sup>39</sup> A number of countries have liberalized the regulation of the legal services industry to allow for outside investment in law firms among other things. See James Peters, *Pandora’s Box or Panacea? Lessons from the U.K.’s Liberalization of Law Firm Ownership*, FORBES (Nov. 13, 2014, 1:02 PM), <http://www.forbes.com/sites/danielfisher/2014/11/13/pandoras-box-or-panacea-lessons-from-the-u-k-s-liberalization-of-law-firm-ownership>.

<sup>40</sup> See, e.g., TAMANAHA, *supra* note 32.

<sup>41</sup> See, e.g., ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS § 300 (2014).

hours of experiential learning prior to graduation.<sup>42</sup> While this does not necessarily represent a broad endorsement of a more contextually-focused curriculum, the new ABA standards do recognize the importance of students developing “[o]ther professional skills needed for competent and ethical participation as a member of the legal profession.”<sup>43</sup> This may be a small step, but it is a positive one.

### **E. Lack of Critical Mass**

In the world of driving change, critical mass can mean everything. Any person with a modicum of training in Six Sigma can recite the formula  $Q = A * E$ , where Q represents the quality of the solution, A represents the acceptance of the solution and E represents the effectiveness of the solution. Sony’s Betamax is a classic example of a highly effective solution failing because it was less accepted than the inferior VCR standard.

In the legal services industry, critical mass continues to reside with traditional bespoke legal services, traditional hiring practices and traditional curricula. One need only look at the Martindale Hubbell entries for the average law firm and the course catalogs for the average law school to confirm just how big this mass is.

But Roundtable participants also identified multiple indicators that mass is starting to build behind the training and hiring of T-shaped lawyers and the consumption of the services that they uniquely are situated to deliver. For example, increasing numbers of large legal departments now have a legal operations function. While these legal operations specialists used to be largely isolated, they now communicate regularly through groups such as CLOC and, in recognition of their prevalence, the Association of Corporate Counsel recently formed a Legal Operations Section. Indeed, CFOs increasingly require that legal departments be run in operationally disciplined manners and not as a black box that delivers bespoke legal solutions.

Legal academics teaching contextual skills likewise are communicating regularly. As one Roundtable participant observed that while he used to feel isolated, “After today’s session, I know that I’m not alone and I have found my people.” This small increase in mass may ultimately prove insignificant, but it also could be the tipping point for broader change.

## **Conclusion**

The legal services industry, from law firms to legal departments to law schools, has been in a state of disruption for at least the past seven years. Most of the news during that time has been negative: law firm consolidations, unemployed lawyers, declining law school applications, etc.

During this time, the industry also has shown signs that it may be on the cusp of transforming itself from a relatively manual and inefficient set of service providers to a modern, automated and efficient force. Numerous barriers – many of which stem from over a hundred years of practice – stand in the way of this transformation becoming widespread, but flowers of change also are starting to bloom.

These flowers of change are accompanied by a renewed sense of optimism that was noted by multiple Roundtable participants. One observed that the recent NY Times article about legal experiments in developing T-shaped lawyers was the first positive press on law schools in several years. Another participant observed that before the Roundtable he was worried about his son’s desire to go to law school but that he now was optimistic that the current winds of change could enable students to go to law school,

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<sup>42</sup> *Id.* at § 303(a)(3).

<sup>43</sup> *Id.* at § 302(d).

obtain relevant skills and have meaningful careers that provide reasonable returns on the students' investments.

While the Roundtable participants recognized that change would be difficult, they also felt that market forces make it inevitable. When asked how change will happen, one participant summed up the overall feeling perfectly: "I'm not concerned with those who don't want to change. I'm focused on those who do and will continue to move forward."

## **Appendix A**

### **Roundtable Participants**

Amy Bauer, University of Colorado Law School, Legal Writing Professor

Brad Bernthal, University of Colorado Law School, Associate Professor of Law

Connie Brenton, NetApp, Chief of Staff, Director of Legal Operations

Nick Budor, Ciber, Inc., Associate General Counsel

Mark Chandler, Cisco, Senior Vice President, General Counsel and Chief Compliance Officer

Andy Evans, University of Colorado Law School, Entrepreneurial Fellow

Greg Garcia, University of Colorado Law School, 2nd Year Law Student, TLA Alumnus

Will Glasson, University of Oregon Law School, Associate Director of External Relations

Otto Hanson, University of Colorado Law School, 2nd Year Law Student, TLA Alumnus

Steve Harmon, Cisco, Senior Director, Legal Services

Bill Henderson, Indiana University, Professor of Law

Ryan Howe, Webroot, Associate General Counsel

David Huberman, Rally Software, General Counsel

Dan Katz, Illinois Institute of Technology-Chicago Kent School of Law, Associate Professor of Law and formerly Michigan State University College of Law, Associate Professor of Law

Paul Lippe, Legal Onramp, Co-Founder and Chief Executive Officer

Michael Madison, University of Pittsburgh, Professor of Law

Mike Matheson, Intrado, Corporate Counsel

Derek McCandless, CoreSite, Senior Vice President & General Counsel

Elise Miller, Access Group, Vice President, Research Programs

Bill Mooz, University of Colorado Law School, Strategy Officer & Scholar in Residence

Mystery Murphy, Cooley LLP, Associate

Ben Oelsner, Kendall Koenig & Oelsner, PC, Partner

Helen Parker, Wayin, Vice President and General Counsel

Josh Pens, University of Colorado Law, Second Year Law Student, TLA Alumnus

Todd Rogers, University of Colorado Law School, Assistant Dean for Career Development

Tom Sharbaugh, Morgan Lewis, Partner

Mark Turnage, OpSec Security Group, Vice Chairman

Phil Weiser, University of Colorado Law School, Dean