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ACCESS TO JUSTICE AND TECHNOLOGY CLINICS: A 4% SOLUTION
Ronald W. Staudt and Andrew P. Medeiros 695

This article argues that law schools should add Access to Justice and Technology Clinics: a new type of clinical course that teaches law students how to use and deploy technology to assist law practice. If widely adopted, these clinics will help law students learn core competencies needed in an increasingly technological profession while simultaneously building tools and content to help low-income, self-represented litigants overcome serious barriers in their pursuit of justice. In our prototype course at Chicago-Kent, Justice and Technology Practicum, students use A2J Author to build A2J Guided Interviews and in the process students learn legal research, writing and analysis, while also developing important skills such as project management and planning, collaboration, and empathy. In addition to teaching students how to use specific document assembly and automation tools, the course exposes students to an array of technology tools and skills, providing a better understanding of the transformative effect information technology has on the legal practice. Now through CALI’s Access to Justice Clinical Course Project, faculty at six other law schools are designing courses that will build on this experience to be shared with all CALI law schools.

IF ONLY WE KNEW WHAT WE KNOW
Conrad Johnson and Brian Donnelly 729

This article contributes to the broader themes surrounding law and technology raised in this symposium by taking a look at lawyering and knowledge management. This topic is presented both as a theory and with a case study. The first part provides a brief summary of the basic lawyering paradigm used in the Lawyering in the Digital Age Clinic at Columbia Law School—that all lawyering activities can be understood within the context of gathering, managing and presenting information. The second category of the paradigm is expanded upon to review the activity of managing knowledge. Then, knowledge management is positioned as the foundation for “reflection in action”, a concept that has been widely recognized within clinical legal education.

What follows is to consider the A2J application as an example of an expert system. Then, finally, a brief case study is presented on how the Lawyering in the Digital Age Clinic used the A2J application in conjunction with partners in the New York Court system to address a pressing need on the part of pro se litigants.
THINKING LIKE A LAWYER, DESIGNING LIKE AN ARCHITECT: PREPARING STUDENTS FOR THE 21ST CENTURY PRACTICE

Tanina Rostain, Roger Skalbeck, and Kevin G. Mulcahy

Various law schools—Chicago-Kent Law School, New York Law School, Vermont Law School, and Georgetown Law Center among them—are beginning to offer innovative classes in which students learn to build legal expert systems intended to enhance access to the legal system. Working in platforms that do not require technical expertise, students are able to build apps that incorporate rules-based logic, factor balancing, and mathematical operations to implement the reasoning of a regulatory regime. In this essay, we suggest that teaching students to design apps furthers pedagogic goals associated with the traditional law school curriculum and clinical teaching. In designing legal expert systems, students are required to engage in careful legal analysis and anticipate the problems and questions a typical user will have. Students also need to learn to communicate legal concepts and categories in precise and plain language. Contrary to the traditional law school curriculum, however, which emphasizes case-by-case analysis, in clinics that focus on building legal expert systems, students learn to develop systemic solutions to legal problems. By exposing students to principles of systems design, these classes prepare them for the emerging challenges of 21st century practice.

THE TEACHING OF LAW PRACTICE MANAGEMENT AND TECHNOLOGY IN LAW SCHOOLS: A NEW PARADIGM

Richard S. Granat and Stephanie Kimbro

The teaching of law practice management in law schools is becoming more critical for our profession. Employment with a traditional law firm used to provide the training and mentorship necessary to practice law. As a result of fewer employment prospects with traditional law firms, law students are now faced with the prospect of entering into law practice without this critical training and knowledge base soon after they become members of the bar.

Additionally, the Internet and information technology is transforming the practice of law and, as a result, the management of law firms is also being transformed. Lawyers must understand the benefits and risks of information technology in law practice in order to ethically and efficiently serve clients and to develop a productive legal career that allows them to compete in a changed legal marketplace. This article presents a survey of the practice management skills required of the 21st century lawyer and proposes new approaches to the teaching of this subject in law schools.

TEACHING LAW AND DIGITAL AGE LEGAL PRACTICE WITH AN AI AND LAW SEMINAR

Kevin D. Ashley

This article provides a guide and examples for using a seminar on Artificial Intelligence (AI) and Law to teach lessons about legal reasoning and about legal practice in the digital age. Artificial Intelligence and Law is a subfield of AI/computer science research that focuses on computationally modeling legal reasoning. In at least a few law schools, the AI and Law seminar has regularly taught students fundamental issues about law and legal reasoning by focusing them on the problems these issues pose for scientists attempting to computationally model legal reasoning. AI and Law researchers have designed programs to reason with legal rules, apply legal precedents, predict case outcomes, argue like a legal advocate and visualize legal arguments. The article illustrates some of the pedagogically important lessons that they have learned in the process.

As the technology of legal practice catches up with the aspirations of AI and Law researchers, the AI and Law seminar can play a new role in legal education. With advances in such areas as e-discovery, legal information retrieval (IR), and semantic processing of web-based information for electronic contracting, the chances are increasing that, in their legal practices, law students will use, and even depend on, systems that employ AI techniques. As explained in the Article, an AI and Law seminar invites students to think about processes of legal reasoning and legal practice and about how those processes employ information. It teaches how the new digital documents technologies work, what they can and cannot do, how to measure performance, how to evaluate claims about the technologies, and how to be savvy consumers and users of the technologies.
DEVELOPING AN E-CURRICULUM:
REFLECTIONS ON THE FUTURE OF
LEGAL EDUCATION AND ON THE
IMPORTANCE OF DIGITAL EXPERTISE

Oliver R. Goodenough

Legal education is in the midst of significant change, where much of how
and what we have taught is under scrutiny. As we reform our curriculums in this
moment of change, we should be guided by considerations of value added, values
added, economic sustainability. It is no longer enough for our programs to target
bar passage, doctrinal coverage, a shared language of argument, and skills and
perspectives, important as these may be. Practice in the foreseeable future re­
quires us to add new knowledge and competencies. Law and technology is an
area that is ripe for expansion, with the possibility of satisfying all of these crite­
rnia. It provides ample room for scholarly examination. Creating opportuni­
ties for learning how technology is shaping legal practice should be a priority for
any school looking to provide a useful education for the lawyers of the present,
let alone the future.

LAW SCHOOLS AS KNOWLEDGE
CENTERS IN THE DIGITAL AGE

Vern R. Walker,
A.J. Durwin,
Philip H. Hwang,
Keith Langlais,
and Mycroft Boyd

This article explores what it would mean for law schools to be “knowledge
centers” in the digital age, and to have this as a central mission. It describes the
activities of legal knowledge centers as: (1) focusing on solving real legal
problems in society outside of the academy; (2) evaluating the problem-solving
effectiveness of the legal knowledge being developed; (3) re-conceptualizing the
structures used to represent legal knowledge, the processes through which legal
knowledge is created, and the methods used to apply that knowledge; and (4)
disseminating legal knowledge in ways that assist its implementation. The Article
uses as extended examples of knowledge centers in the digital age the research
laboratories in the sciences, and in particular research laboratories in linguistics
and information science. It uses numerous examples to suggest how law schools
might implement the concept of a knowledge center.

GAMING THE SYSTEM: APPROACHING
100% ACCESS TO LEGAL SERVICES
THROUGH ONLINE GAMES

William E. Hornsby, Jr

By all measures, the American Legal System falls short of providing access
to justice for all. Legal needs studies show that people often do not recognize
when they have a problem for which there is a legal solution and therefore do not
seek out lawyers or the justice system to provide assistance with their
problems. Some assert that the costs of legal services are beyond the means of
many people. While that is true for the poor in some areas of law, both the
marketplace and specific programs, such as lawyer referral modest means panels,
provide affordable legal services for many types of legal matters. For many, it is
not affordability but lack of engagement that causes people to forego legal solu­
tions. Technology has addressed efficiencies in the legal process, once again driv­
ing down costs, but has not fulfilled its potential for creating engagement. Even
though the public finds the courtroom a focal point of popular culture, from
novels to movies to daytime television, the legal profession has not done a good
job of using the Internet to engage the public about their legal needs. The Army
has used Massive Multi-player Online Games (MMOGs) to engage potential re­
cruits and in fact serve as an effective recruiting tool. Others have used MMOGs
as platforms to explore societal crises such as petroleum dependency and crowd­
source solutions to medical issues. Law schools, which are leading the creative
use of technology for legal matters, are well-positioned to take the lead in the
development of online gaming to advance engagement in ways that enable people
to recognize the circumstances under which they have legal solutions to their
problems.
Liberty, Justice, and Legal Automata
Marc Lauritsen

Legal work is increasingly doable by artificial systems built out of software. Providers in both commercial and non-profit contexts are making such systems available for direct use by consumers. Some lawyers and policy makers understandably worry that these developments pose dangers for users and may inappropriately intrude on the prerogatives of the legal profession. This article reviews the extent to which software-based legal assistance systems can or should be suppressed as the unauthorized practice of law in light of constitutional rights of free expression and the social good of access to justice.

STUDENT NOTES

Technically Speaking, Does it Matter?
An Empirical Study Linking the Federal Circuit Judges’ Technical Backgrounds to How They Analyze the Section 112 Enablement and Written Description Requirements
Dunstan H. Barnes

Patent cases are decided exclusively by federal judges, who—unlike patent attorneys appearing before the United States Patent and Trademark Office—are not required to have any scientific or technical qualifications. The present empirical study explores whether there is a correlation between the technical backgrounds of judges on the United States Court of Appeals for the Federal Circuit and these judges’ analysis of the enablement and written description patent requirements under 35 U.S.C. § 112. The results indicate that Federal Circuit judges with technical backgrounds are more likely than their non-technical peers to reverse lower courts, but not significantly more likely to invalidate a patent for failure to comply with Section 112.

Marriage is Between a Man and a Woman and . . . : Latest Evolution of Marital Residence Regime in Contemporary China
Yu Di

This Note discusses the controversial August 2011 Judicial Interpretation on the Marriage Law of China concerning the treatment of marital residence in divorce proceedings. The Interpretation gives great weight to the title under which the property is held, and commentators have criticized this approach as unfair to women. This Note examines the Interpretation from a historical and comparative viewpoint. Section I traces the development history of Chinese law of marital property. Section II summarizes the U.S. law on the most prominent scenario addressed by the new Interpretation, that of the distribution at divorce of a marital residence to the acquisition of which the parents of one party have contributed financially. Finally, Section III argues that while the Interpretation may represent a natural and reasonable development in Chinese law, a fact-based case-by-case approach is a more equitable way to address the problem of division of marital residence.

Educating the Underground: The Constitutionality of Non-Residence Based Immigrant In-State Tuition Laws
Alexander F.A. Rabanal

Recent political discourse on undocumented immigration has triggered questions regarding the extent to which the individual states are preempted from making undocumented immigrants eligible for certain state benefits. In-state tuition, in particular, has become a site of contentious debate. This Note examines whether states may, consistent with federal law and federal preemption principles, make undocumented students eligible to matriculate at public universities. Part I of this Note provides historical background on the development of the federal exclusivity principle in matters of immigration law. Part II examines the federal laws against which immigrant in-state tuition laws are analyzed for preemption. Part III draws insights from recent cases from the U.S. and California Supreme Courts involving express preemption clauses. Finally, Part IV concludes that immigrant in-state tuition laws not based on residence within the state are constitutional.
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Stories about "welfare money" being used out of state for frivolous purposes have prompted legislators in some states to propose laws that would restrict access to and spending of cash benefits to a recipient's home state. Minnesota passed such a restriction in 2012. Prohibitions or restrictions on out-of-state access to or spending of cash benefits are constitutionally flawed because they interfere with interstate commerce and unreasonably burden the right to travel.

Using the National Mortgage Settlement to Help Clients in Foreclosure . . . 16
By Peggy P. Lee

The federal government and forty-nine states reached a $25 billion settlement, in March 2012, with the "Big Five" mortgage servicers over loan servicing and foreclosure abuses. The settlement established national mortgage servicing standards that legal services attorneys can use as a tool to protect their clients' homes. Advocates can report mortgage-servicing abuses to the National Association of Consumer Advocates Attorneys General National Mortgage Settlement Survey Database.

How to Make a Farmers' Market: The Legal Structure Behind Local Food ......................... 22
By Erin Kee and Jason Foscolo

Farmers' markets are more than a place to buy fresh fruits and vegetables. They are neighborhood hubs where consumers learn about agriculture, people reconnect with friends, and farmers share information. Farmers' markets are also sophisticated legal entities, and public interest lawyers can help create, maintain, and publicize markets' endeavors.
Bridging the Divide Between Civil Legal Aid Lawyers and Public Defenders ............................................ 30
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Having worked as a civil legal services attorney and working now as a public defender teaches multiple lessons about what each side should know about the other. Public defenders need a better understanding of collateral consequences of criminal convictions, while civil advocates should appreciate the pressures that defenders experience from clients who wish to accept plea bargains in order to reduce time spent incarcerated. Clients will benefit from affirmative efforts by both civil advocates and defenders to collaborate, share information, and create easy-to-use communication channels.

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Ten Years In and Picking Up Steam: A Retrospective on the National Coalition for a Civil Right to Counsel ..................... 36
By John Pollock and Mary Deutsch Schneider
On the fiftieth anniversary of Gideon v. Wainwright efforts are growing to realize a right to counsel not just in criminal cases but also, for low-income people, in civil cases affecting basic human needs. In its ten years of advocacy the National Coalition for a Civil Right to Counsel has drawn attention to the impact of the lack of the right and has helped advocates around the country strategize about how to achieve the right in their states.

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By Martin Guggenheim and Susan Jacobs
Although the U.S. Supreme Court held in 1981 that parents were not entitled to court-assigned counsel in every decision to terminate parental rights, there is a vigorous national movement for indigent parents to have such counsel. Most states now recognize that indigent parents have a right to such counsel, and more and more states are recognizing the need for a new model of representation—incorporating social workers and parent advocates into child welfare practice.

50 Years of Gideon, 47 Years Working Toward a “Civil Gideon” ..................... 47
By Justice Earl Johnson Jr. (ret.)
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[This issue of the] Review publish[es] three related pieces on the topic. An article by John Pollock, coordinator of the National Coalition, and Mary Schneider, executive director of Legal Services of Northwest Minnesota, ... take[s] a look back at the coalition’s work and progress. Martin Guggenheim and Susan Jacobs of the Center for Family Representation in New York ... discuss advancements in ensuring representation of parents involved in the child welfare system. And retired California Court of Appeal Justice Earl Johnson Jr., now a key player in the coalition, longtime proponent of a civil right to counsel, and pioneer of the legal aid movement, reflect[s] on the meaning of Gideon for antipoverty advocates and the evolution of his conviction about the importance of civil counsel.

Most of those seeking to improve the indigent defense system and advocating a civil right to counsel understand full well that the two rights are sides of the same coin, affecting the same communities. Lack of adequate defense to criminal charges can lead to lasting collateral consequences such as a criminal record that makes obtaining housing and employment difficult, while lack of counsel in an eviction or foreclosure proceeding can lead to homelessness and greater vulnerability to criminal charges. As we celebrate the anniversary of the Gideon decision and resolve to push for its full realization, these inextricable links should remind us how important it is, in fulfilling Gideon’s promise, not to forget people on the civil side of the courthouse.
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