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# INCUBATOR DEVELOPMENT AT HOME AND ABROAD: ANECDOTAL STORIES FROM THE TRENCHES

FRED ROONEY\*

After serving as a Fulbright scholar at the Autonomous University of Santo Domingo from August 2012 through June 2013, I was hired by Touro Law Center's Dean Patricia Salkin to create the first incubator on Long Island and to expand my efforts to support incubator design and development at home and abroad. My work in law school incubator development began with the launching of the first law school-sponsored incubator in 2007 and has continued through the present. Since 2007, I have travelled extensively across the United States and in Europe, Asia and Latin America extolling the virtues of incubators and the role they play in the enhancement of access to justice. Today, there are well over 40 incubator programs functioning in the United States and there are an ever-growing number of programs on the drawing board. There is also an incubator in the Dominican Republic and others that are expected to launch in Pakistan and Kenya.

Having the full support of her faculty, Dean Salkin gave me the green light to proceed with the conceptualization of an incubator for Touro Law graduates and with its establishment in Hauppauge, Long Island. Dean Salkin also authorized me to design and create the INTERNATIONAL JUSTICE CENTER FOR POSTGRADUATE DEVELOPMENT ("Center"), which was opened in July 2013. The Center is rooted in Touro Law's commitment to quality legal education "that encourages students to examine the moral goals of the law while promoting social justice and community service." As a leader in promoting the moral and ethical responsibilities of the legal profession, the Center was created with an understanding that postgraduate legal education has proven to be an effective tool to enable new lawyers to deepen their commitment to social justice as they work to develop solo and small firm practice and not-for-profit organizations.

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\* Fred Rooney, who created the first law school incubator in 2007 and has worked tirelessly to promote such post-graduate programs across the nation and to assist in their establishment at other law schools, is currently a Fulbright Scholar, engaging in incubator-related activities on a global scale.

To ensure the availability and sustainability of attorneys working in solo and small firms, the Center was designed to work with law schools, bar associations and not-for-profit organizations that wish to assist law graduates as they set up and then manage community-based practices that serve the pressing needs of poor, economically disadvantaged and working class clients in communities underserved by lawyers. The Center was also designed to identify ways for law graduates to develop the transactional skills they need to support small business owners because successful small entrepreneurs are widely recognized as crucial to the development and sustainability of the economic strength of a community and to its overall economic growth. The resulting practices, made personally and professionally rewarding for socially conscious law graduates who benefit from ongoing mentoring and professional support, inevitably increase access to justice in marginalized communities, using client-centered, community-oriented and social-justice focused legal representation.

Initial goals of the Center included the following:

- **COLLABORATION WITH THE ABA STANDING COMMITTEE ON THE DELIVERY OF LEGAL SERVICES.**

The Center would work closely with the ABA to support existing incubator and residency programs for lawyers, to conceptualize new models that address the ever-changing unmet legal needs of people around the globe and support access-to-justice initiatives both at home and abroad.

- **INTERNATIONAL CONFERENCE ON POST-GRADUATE LEGAL EDUCATION, SPRING 2014.**

The Center would cosponsor a conference with the ABA and other law schools to discuss recent trends in post-graduate legal education and to provide technical training and support to interested law schools, bar associations or other organizations interested in developing incubators or residency programs.

- **INTERNATIONAL SUPPORT CENTER.**

The Center would solicit funding from United States government agencies (State and Justice Departments, USAID, etc.), international foundations and bar associations to provide international students/professors/bar leaders and members of the judiciary with the training they need to successfully create post-graduate programs designed to increase access to justice.

- **EXPAND CLEARINGHOUSE SERVICES AND INTERNATIONAL LISTSERV.**

In conjunction with the ABA, the Center would compile and house reports, law review articles, books, articles and other materials that can be used by law schools in the process of developing their own post-graduate programming. A listserv that promotes the free flow of information among its subscribers would substantially enhance communication from institutions around the world.

- **NATIONAL TRAINING CENTER.**

The Center would develop a national training component to provide technical support for domestic law schools/bar associations/state justice commissions and other organizations planning post-graduate programs designed to increase access to justice.

- **CREATION OF AN INCUBATOR FOR TOURO LAW GRADUATES.**

The Center would serve as a catalyst for the eventual launching of a Touro Law incubator, named the Community Justice Center of Long Island (“CJCLI”). It was anticipated that the CJCLI would assist 10 - 12 Touro Law graduates over an 18-month period as they deal with the professional and financial challenges of establishing solo or small community-based firms or not-for-profit organizations.

- **CATALYST FOR POSTGRADUATE TRAINING DESIGNED TO ASSIST IMMIGRANTS ON LONG ISLAND.**

To address the precarious status and unmet legal needs of Long Island’s immigrant community, the Center would solicit and then receive funding from the Hagedorn Foundation to train CJCLI attorneys to develop the professional skills needed to effectively address immigrants’ legal needs. Just as students and graduates of medical school learn to refine their skills through a combination of theoretical and practical training, CJCLI attorneys would be able to develop a deeper understanding of immigration law through rigorous classroom training, and once trained, engage in the supervised delivery of legal services to immigrants in need.

Since its inception in September 2013, the Center has worked with law schools, bar associations and NGO’s, has participated in conferences at home and abroad,<sup>1</sup> has become the precursor for the newly

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<sup>1</sup> Among conference participants are the National Legal Aid & Defender Association, DC Council of Lawyers, Global Alliance for Justice Education, Council for International

created National Consortium of Law Incubators (“NCLI”), and has far exceeded its initial goals by providing sorely needed guidance to legal institutions that wish to solidify their social commitment through the support they give to their alumni or members.

With the Center solidly in place, Touro Law was able to successfully launch the Community Justice Center of Long Island (CJCLI), in November 2013. CJCLI borrows from my experiences helping to design the first legal incubator in 2007,<sup>2</sup> and from my ongoing experiences working on incubator development in the United States and abroad, and from models of successful business incubators designed to assist micro entrepreneurs create economically viable businesses. It has an additional goal of helping CJCLI attorneys create law practices that address the unmet legal needs of individuals of moderate to low incomes.

CJCLI currently supports the start-up efforts of 13 Touro Law graduates over an 18-month period as they face the challenges of establishing small community-based firms. For example, CJCLI offers training in basic law office management practices and ethics for small firm practitioners, professional support in areas of law such as immigration, family, landlord-tenant law and in other topics that will arise as these attorneys build their practices. Lastly, CJCLI provides opportunities for its members to engage in community-based justice initiatives designed to increase access to justice.

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Exchange of Scholars, Washington, DC, Washington College of Law/American University, American Association of Law Schools, California Western School of Law, Continuing Legal Education Institute of Pakistan (CLEIP), School of International Law, Pakistan, State Bar of California’s Access to Justice Commission, American Bar Association, National Family Justice Alliance, San Diego, CA, Civil Innovation Lab, Dominican Republic, International Journal of Clinical Legal Education, Open Society Foundation (OSF), United States Department of State Bureau of Education and Cultural Affairs, Drexel University School of Law, University of Pittsburgh School of Law, Loyola Law School, Los Angeles, State Bar of California’s Access to Justice Commission, Alaska Court System, Alaska Bar Association, New York State Judicial Institute on Professionalism in the Law, New York State Bar Association, New York State Bar’s Committee on Legal Education and Admission to the Bar, Centro Comunitario de Servicios Legales (CECSEL), Santo Domingo, Dominican Republic, Ministry of Women’s Affairs, Santo Domingo, Dominican Republic, Universidad Autónoma de Santo Domingo, Santo Domingo, Dominican Republic, Office of Attorney General Francisco Dominguez Brito, Santo Domingo, Dominican Republic, Cleveland-Marshall College of Law, Ecuadorian Consulate, New York, New York, Symbiosis Law School- Noida, India, Symbiosis Law School- Pune, India, Global Alliance for Justice Education, District of Columbia Bar, Emory University School of Law, Georgia State University College of Law School, University of Georgia School of Law School, John Marshall Law School, Mercer University School of Law School, Instituto OMG, Santo Domingo, Dominican Republic, Vermont Law School, Insaf Network of Pakistan.

<sup>2</sup> The City University of New York School of Law launched the first legal incubator in 2007.

### WHY THE NEED FOR INCUBATORS

Law schools around the world have historically been designed to promote doctrinal learning through memorization and the use of Socratic methodology. Until the introduction of clinical legal education, learning was theoretical and the activity of actually practicing law was ignored. Clinical education now provides law students with an opportunity to develop lawyering skills through the direct representation of clients. Unfortunately, not all law schools incorporate clinical education into their curriculum and for those that do, practical learning comes to an abrupt stop the moment a law student walks across the stage to receive his or her diploma on graduation day. Hence, the need for postgraduate education becomes even more imperative.

In 1992, the ABA Task Force on Law Schools and the Profession released a report entitled *Legal Education and Professional Development—An Educational Continuum* (commonly known as the MacCrate Report)<sup>3</sup>. The MacCrate Report makes a compelling argument for comprehensively reevaluating legal education in the United States. *MacCrate* implicitly asserts that lawyers must and can be taught a common set of professional skills and values and that legal education should be a continuum that begins in law school (or before) and continues throughout a lawyer's career. The goal of legal education should be not only to teach substantive law, but also to foster the acquisition of a relevant and universal set of skills and values. Education in the identified set of skills and values, however, must be ongoing. The Task Force also recognized that some learning is best suited to the law school environment, while some develops through a lawyer's years of practice. Significant learning also takes place informally through a lawyer's observations of and interactions with others in the legal community.

Fifteen years later, the *Carnegie Foundation for the Advancement of Teaching* released a report on legal education entitled *Educating Lawyers: Preparation for the Profession of Law*.<sup>4</sup> The study concludes that law schools must improve in integrating teaching legal doctrine and, simultaneously, helping students develop practical lawyering skills and understandings of ethical issues.<sup>5</sup> Law schools do a good job

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<sup>3</sup> AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, *Legal Education and Professional Development – An Educational Continuum* (1992) (hereinafter referred to as “MacCrate Report”).

<sup>4</sup> WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSIONAL OF LAW* (2007) (hereinafter referred to as the “Carnegie Report”).

<sup>5</sup> *Id.*

of teaching students analytical skills, but are less successful in teaching skills, a sense of justice, and ethics.

Despite the success of clinical education and the recommendations of the MacCrate and the Carnegie reports, current news reports from across the United States and abroad continue to decry the state of legal education and its inability to fully prepare law students for the eventual practice of law. In medical school, students are required to complete an internship and residency before going out on their own. In legal education, law graduates “hit the road running” and have little or no time to hone their practical skills. Oftentimes, clients serve as proverbial “guinea pigs” since they provide untrained lawyers with a chance to obtain practical experience. Unfortunately, a new and unprepared lawyer with marginal skills can do more harm than good when representing clients.

#### 2007: THE DAWN OF THE FIRST LAW SCHOOL INCUBATOR

The Batavia Industrial Center, commonly known as the first U.S. business incubator, opened in Batavia, N.Y., in 1959. But the concept of providing business assistance services to early-stage companies in shared facilities did not catch on with many communities until at least the late 1970s. In 1980, approximately 12 business incubators were operating in the United States – all of them in the industrial Northeast, which had been hard-hit by plant closures in the previous decade. Throughout the 1980s, business incubation industry growth was swift; as others began to recognize the value of creating and expanding new businesses to sustain local economies, more communities developed business incubators to support these new ventures.<sup>6</sup> Despite the development of business incubators for a wide variety of industries and professions,<sup>7</sup> an incubator to train lawyers did not emerge until 2007 when the first law school incubator was launched by the City University of New York School of Law (“CUNY”). CUNY’s program, modeled after successful incubator projects created for small business owners and micro entrepreneurs, was unique in that it required lawyers chosen to participate in the program to commit to using their law practices to increase access to justice by providing a wide spectrum of affordable legal services to underserved communities located throughout New York City and the greater metropolitan area, while those lawyers learned the skills needed to make their practices economically sustainable.

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<sup>6</sup> <http://www.nbia.org/resource> (last visited 10/25/15).

<sup>7</sup> [http://en.wikipedia.org/wiki/Business\\_incubator](http://en.wikipedia.org/wiki/Business_incubator) (last visited 10/25/15).

Traditionally, the dream of many law graduates has been to launch their careers by joining law firms, corporations and governmental or legal services organizations that offer competitive salaries and benefits. Once hired, they were assured of access to professional training and support, and were oftentimes assigned a mentor to help with almost every aspect of their professional development. For lawyers venturing into solo or small firm practice, professional support is not always readily available and the development of skills needed to run a small business without proper support can be daunting. The CUNY incubator was designed to resemble a fully functioning law firm with goals of enhancing the professional skills of its members so that they could attain the business skills needed to create economically viable and professionally satisfying practices.

#### A CRISIS IN LEGAL EDUCATION AND THE SPREAD OF INCUBATORS AT HOME AND ABROAD

Without a doubt, legal education in this country is in a state of crisis as class sizes are shrinking, law school faculty and staff are accepting early-retirement packages or, in some instances, are being laid off. All of this is happening at a time when lucrative, full-time jobs are harder to come by for law graduates.

On January 15, 2015, Jacob Gershman of the Wall Street Journal's Law Blog reported the following<sup>8</sup>:

The law school applicant pool appears to be getting more and more shallow. The number of people applying to law school is down 8.5% compared to last year at this time, according to the latest figures released by the Law School Admission Council. As of Jan. 9, just shy of 20,000 would-be lawyers had submitted applications to law schools. The downward trend is even starker if you compare it to figures from three years ago. By this point in 2012, about 30,000 students had applied. The drop-off in applicants suggests that law schools may have an even harder time propping up their enrollment figures, which have also been shrinking. As the Law Blog reported earlier, the number of students who began law school in the fall of 2014 was down 4.4% from the year before, extending a slide that began in 2011.

The sharp decline in enrollment has exacerbated and will continue to exacerbate the ongoing crisis in access to justice since it will result in an overall decline in the number of lawyers entering the profession and a concurrent reduction in the number of lawyers willing to address the unmet legal needs of the masses. Any further

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<sup>8</sup> <http://blogs.wsj.com/law/2015/01/15/law-school-applicant-pool-continues-to-shrink-2/>.



erosion of affordable access to lawyers will inevitably place an additional burden on vulnerable groups like immigrants, both documented and undocumented, and individuals of middle to low-incomes. For that reason, it is even more important to make a concerted effort to increase the number of lawyers who understand the particular needs of America's legally underserved and to help them develop the requisite skills needed to effectively advocate for the most vulnerable members of society.

For law students in the United States who graduate with little or no exposure to clinical or experiential learning, or for students studying in countries where clinical education does not exist, legal education is primarily theoretical and fails to provide students with opportunities to develop the practical skills they need to be effective advocates. For new law graduates, the postgraduate development of their professional skills outside of an established law firm or publicly funded legal services organization is inadequate unless they have access to a mentor or meaningful Continuing Legal Education classes. Hence, there is a critical need for incubators and legal residency programs since they are able to provide professional support and training to graduates who are deeply committed to the enhancement of access to justice for marginalized segments of our societies.

#### AN EXPANSION OF LEADERSHIP IN A VACUUM AND ANECDOTAL STORIES OF SUCCESS

In the early years of incubator development and expansion, leadership remained in a vacuum since only a handful of law schools were willing to allocate the financial resources needed to create postgraduate programs to support members of their alumni communities. After the CUNY Law incubator model was launched in 2007 and was reported on by the New York Times, Luz Herrera<sup>9</sup> reached out to me to seek my input on how to further advance the goals of Community Lawyers, Inc., a not-for-profit organization Luz incorporated in Compton, California in May 2005. Luz established Community Lawyers to formalize mentoring opportunities for first-generation pre-law and college students and to expose them to opportunities in and the challenges of the legal profession and the needs of low- and moderate-income clients.<sup>10</sup> The precursor to Community Lawyers was started as

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<sup>9</sup> Currently, Luz Herrera is the Assistant Dean for Clinical Education, Experiential Learning, and Public Service, UCLA School of Law.

<sup>10</sup> See [www.community-lawyers.org](http://www.community-lawyers.org) (last visited 10/25/15). Community Lawyers, Inc.'s mission statement is to provide "low and moderate-income people access to affordable legal services and develops innovative opportunities for attorneys and law students in underserved communities.

an informal mentoring and internship program that Luz developed while she was a solo practitioner. In the years of 2002 to 2005, approximately a dozen new and future attorneys sought mentorship from Luz and the organization. These individuals were interested in making a living by being responsive to the needs of legally underserved communities.

Since much of what Luz was doing in Community Lawyers was similar to what we were doing in the CUNY incubator, we realized from the onset that it made sense to work collaboratively to further our common goals. We first began by looking at strategies to incorporate the incubator's best practices into Community Lawyers, and vice versa, and then identify ways to advocate for incubator development elsewhere in the United States.

In 2008, Luz was hired by Thomas Jefferson School of Law ("TJSL") in San Diego to develop a transactional clinic. Luz's role as a full-time faculty member and a clinician provided her with an ongoing ability to pitch the value of incubators to her colleagues on the TJSL faculty and to others. For several years, we worked collaboratively to advance the notion that incubators were powerful tools for enhancing the economic viability of solo and small firm practices and for increasing access to justice to underserved populations.

In her role as a scholar, Luz set forth a persuasive argument as to why it made sense for TJSL and other law schools to create incubator programs for their graduates. Luz's persistence and determination, eventually paid off when in April 2012, TJSL agreed to hire Attorney Lilys McCoy to serve as a part-time director to an incubator program.<sup>11</sup>

Luz explains that the support she received at TJSL allowed her to use her scholarship as a platform to launch incubators and consult with state bar leaders on the need for new models that served modest and middle income populations.

At the same time that Luz was conceptualizing the Center for Solo Practitioners, I reconnected with my former colleague from CUNY Law, Professor Bob Seibel of California Western School of Law (CWSL) in 2011. After serving as a clinical teacher for 32 years, Bob was well aware of the failure of our legal system to be accessible to poor and modest means individuals and families. He had also become increasingly aware of the high level of interest among law students for careers that serve the communities from which they come or

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<sup>11</sup> See Steve Semeraro, *Thomas Jefferson School of Law Commits to Solo Practice*, at <http://www.tjssl.edu/news-media/2012/6505> (May 21, 2012); see also *TJSL Launches Solo Practice Incubator Program*, at <http://www.tjssl.edu/news-media/2012/7888> (Nov. 1, 2012).

that address issues that modest-income people face. Through his years of experience in the legal academy, Bob had come to the firm conclusion that law schools generally fail to properly prepare graduates for the independent practice of law, something that is the day-to-day reality of most lawyers.

Bob was aware of the concept behind the creation of an incubator for lawyers since he was at CUNY Law when it was launched. By the time we reconnected in 2011, he was acutely aware of the growing realities faced by law schools, of the financial difficulties they were facing and of the serious cutbacks in programming as seen across the nation. Bob was intrigued by the value of incubators and began toying with the possibility of creating an incubator at Cal Western. In November, 2011, he convened a focus group of Cal Western graduates to talk about incubators, to gather input about what features of incubation would be useful to the graduates, and to gauge how much they could afford to pay if they decided to become part of an incubator program. When Bob spoke of his proposed 100-hour annual pro bono/public service requirement for each participant in the incubator, he was encouraged to hear that all of the lawyers in attendance agreed that the requirement was fair and acceptable. He then met with several community organizations to confirm that there was a need for affordable legal services and to determine the potential for cooperation and collaboration between a Cal Western incubator and local organizations.

When Bob decided to forge ahead with the creation of an incubator, he quickly learned that getting initial buy-in from the administration would not be forthcoming. Yet, his determination to create an incubator was so great that he actually prepared to launch a program for Cal Western graduates without institutional support in June 2012 and named it the Access to Law Institute (ALI). On the eve of the proposed launch day, the law school agreed to become the sponsor of ALI, but did not provide any financial commitment. With no funding in place, Bob assumed the role of the incubator creator, administrator, secretary and “chief cook and bottle washer.” The ability to establish an incubator singlehandedly spoke to the level of his commitment to Cal Western graduates and to furthering access to justice in underserved sections of San Diego.

Once the administration was able to witness the support that ALI received from its members and the immediate positive impact that it was having on their practices, it decided to lend its moral and financial support to Bob and ALI. As Bob explained to me, he had quickly become aware of the many potential obstacles he faced getting an incubator off the ground without the financial support of his institu-

tion; however, it seemed that each time he encountered a hurdle in the road, a solution would serendipitously appear. He managed to find affordable space in a communal office in a professional building and quickly had eight incubatees to start the program. Despite what Bob has characterized as his exceptionally rewarding work as a clinical law teacher, he says he has never experienced anything that surpasses the satisfaction he gets from working with the dedicated public interest oriented members of ALI. He routinely sees evidence that these lawyers are great ambassadors for the whole profession and concrete proof of the important work that law schools can do to contribute to the improvement of the functioning of law in society.

With incubator programs up and running on the East and West coast, I was ecstatic to learn that Professor Tony Luppino, Director of Entrepreneurship Programs at the University of Missouri-Kansas City (UMKC) School of Law, began planning the UMKC Solo and Small Law Firm Incubator in 2009.<sup>12</sup> Tony explained that the UMKC incubator, launched in 2010/11, was a natural outgrowth of the Law School's Solo & Small Firm Institute curriculum—an initiative driven by UMKC's 2003 strategic planning. The Institute is a key part of the school's "Entrepreneurial Lawyering Program," which emphasizes the training of law students to become effective counselors to entrepreneurs and to be entrepreneurial in how they practice law. With regard to the latter, this meant the creation of two solo and small law firm practice courses, both involving interactions with members of the practicing bar and teams of instructors. Both courses have been taught at UMKC since 2004. After several years of success with those courses, the law school's Dean Suni and Associate Dean Jeff Thomas proposed that UMKC consider adding a post-graduate incubator modeled along the lines of the incubators that faculty involved in entrepreneurship had seen in business schools promoting venture startups by students and other community members.<sup>13</sup>

Professor Luppino explains that the creation of the UMKC Incubator was not driven by a declining job market for positions in large law firms or by employment statistics/rankings considerations. Rather, it was the logical addition of a post-graduate element to an established entrepreneurial lawyering/solo and small firm practice curriculum designed to serve many of its grads who would choose solo/

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<sup>12</sup> For a full discussion of Professor Luppino's program, see Anthony Luppino, *Incubating Solo and Small Law Firm Entrepreneurs*, OHIO ST. ENTREPRENEURIAL BUS. L.J. ONLINE (2013/2014), available at <http://moritzlaw.osu.edu/students/groups/oseblj/files/2014/02/Luppino.pdf>

<sup>13</sup> Professor Luppino provided all of the information that outlines the history and current state of UMKC's incubator program.

small firm practice and could benefit greatly from an apprenticeship experience. He emphasizes that the UMKC Solo & Small Firm Institute works well because of the commitment of Dean Suni—who co-teaches in both solo/small firm courses and has been actively involved in the design, implementation and oversight of the Incubator—and the participation of several members of the UMKC School of Law faculty in the team teaching of the courses and the operation of the Incubator.

Another key player in the development of incubators has been Will Hornsby, staff counsel for the American Bar Association's (ABA) Division for Legal Services and for the ABA's Standing Committee on the Delivery of Legal Services ("the Committee"). I was honored to serve as a member of the Committee from 2011-2014.

During my 9-months of working on incubator development as a Fulbright scholar in the Dominican Republic, I flew to the United States on four occasions to attend Committee meetings held in various locations throughout the country. During one of the meetings, I asked Will and committee members about the possibility of having the Committee's website serve as a repository of information on incubator and residency programs since any descriptive information on new or existing programs was anecdotal and not in print. Will and the Committee unanimously accepted my proposal and soon after, the Committee began collecting information on incubator programs that included the name and address of the program, the name of each program's director and the nature of services provided by each program. The information that was posted on the ABA website<sup>14</sup> (see Incubator/Residency Program Directory and Profiles), became a godsend for charting the emergence of new programs and a key resource for individuals looking to connect with program directors. Will reported to me that soon after the first incubator was established at the City University of New York in 2007, other law schools, as well as bar organizations and legal aid offices, started developing similar models. This was a grass-roots effort similar to the development of law school clinics in the 1970s. It was fast moving and with little coordination. The ABA Standing Committee on the Delivery of Legal Services took on the function of a clearinghouse of incubators, so that those involved in their planning and administration could share information and those interested in advancing models could see what had been done by those who came before them. They could avoid reinventing the wheel by referencing the ABA resources.

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<sup>14</sup> AMERICAN BAR ASSOCIATION, DIVISION FOR LEGAL SERVICES, at [http://www.americanbar.org/groups/delivery\\_legal\\_services/initiatives\\_awards/program\\_main.html](http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main.html).

In addition to the Program Directory and Program Profile sections on the website, Will also created an effective tool to enhance communication among Incubator program directors and administrators. As Will explains, the Committee created a listserv that allows those involved in incubators to exchange materials, update one another on developments and ask questions of those who are similarly situated. In addition, the Committee developed a directory, so that anyone could reach any of the active programs for support and insights, and profiles of each program, detailing the services offered such as stipends, rent, CLE programming and length of residency for the participants. The Committee has also collected videos of incubator participants, highlighting their experiences and demonstrating the value of several of the programs. Moving forward, the ABA hopes to continue to foster the incubators, work with the emerging consortium of program managers and move on to subsequent steps such as the collection of analytics to measure the outcomes of individual models and programs.

Will, known for his creativity, helped to enhance the visibility of incubators through the production of *In Their Own Words*, a video edited by Will and his assistant, Sara Smith, and produced by the ABA<sup>15</sup>. The video captures the excitement of incubator participation through a series of interviews of incubator lawyers from across the United States. It has been shown widely throughout the United States and abroad and has generated additional support for incubator development.

Lastly, Will has helped to promote the value of incubator programs during presentations he has made at a myriad of seminars, conferences and summits across the United States. Those of us on the ground are grateful to Will, the Committee and the ABA for the support that has been given the Incubator movement.

THE CENTER: A PRECURSOR TO THE NATIONAL CONSORTIUM  
FOR LAW INCUBATORS (“NCLI”)

In large part, the success of the Incubator movement in a relatively short period of time can be attributed to concerted, ad hoc support given to institutions by the Center and by individuals like Luz, Bob and Tony. Unlike legal education that is highly competitive when law schools in surrounding areas vie for the same (and shrinking) applicant base, the creators and directors of existing incubator and residency programs go out of their way to assist individuals in need of

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<sup>15</sup> *Id.* at [http://www.americanbar.org/groups/delivery\\_legal\\_services/initiatives\\_awards/program\\_main/incubator\\_video.html](http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/incubator_video.html)

technical assistance to conceptualize and eventually launch new incubators.

The newest trend in incubator development can be seen in the proliferation of incubator consortia or in programs that are launched by several law schools, bar associations and not-for-profit organizations. There is a deep sense of camaraderie within the movement as manifested by the sharing and free flow of materials among existing and new startup programs. Materials include sample handbooks for incubator participants, applications for admission to an incubator, job descriptions for individuals hired to coordinate incubator programs, training materials for incubator participants, suggestions for fundraising, etc.

Today, the conceptualization and subsequent launching of incubators can be achieved in a relatively short period of time and for a cost that is oftentimes lower than what law school administrators anticipate. Since the Center's inception, it has provided and continues to provide law schools, bar associations and not-for-profit organizations interested in launching postgraduate programming ongoing support and guidance. In many ways, the Center has served as a local model from which the National Consortium for Law Incubators (NCLI) has been crafted.

As the economics of Touro Law and other law schools across the country became more of a challenge and discretionary funding for programs not related to the core law school curriculum disappeared, it became clear to me that many of the ambitious goals of the Center would be difficult, if not impossible, to realize without the ability to hire proper staffing. I expressed my concerns to Tony Luppino and Bob Seibel and put forth the idea of joining forces to create a structure that would advance much of what the Center initially set out to accomplish. Bob, Tony and I agreed that it made perfect sense to work together since our joint efforts would help us to support our individual incubator programs and enable us to provide greater support for existing and emerging programs across the United States.

Our first stab at collaboration flowed from our desire to devise a plan for the Second National Conference on Incubator and Residency Programs that was held at Cal Western from February 27-28, 2015. We immediately realized that "three heads are better than one" and found that working together was both personally gratifying and professionally productive. Our ongoing conference calls over the course of several months resulted in a highly successful conference with 160 attendees from across the United States and from Europe and the Caribbean. From our efforts flowed discussions on the feasibility of creating a national organization that would, in essence, assist us to

spearhead many of the goals the Center at Touro Law set out to achieve. Our collective efforts resulted in the drafting of a framework on which the creation of NCLI would be built.

NCLI has been developed to address two interconnected responsibilities of the legal profession and legal education in the United States. One is addressing the plight of millions of members of our society with unmet legal needs. The other is the reality that legal education needs to assist law students and new lawyers, especially the large number of them who go on to careers in solo or small firm practice, develop the skills and practice efficiencies they need to serve their clients well and manage their practices in a cost-effective manner.

NCLI's objectives are to provide a more formal structure to (i) connect and facilitate sharing of best practices and opportunities among existing incubators, (ii) assist law schools and bar associations in the formation of new incubators, and (iii) expand the potential of these programs to better prepare new lawyers for practices that can and should help close the access to justice gap faced by so many individuals and small businesses currently suffering from unmet legal service needs. NCLI has been designed to create a formal network, with its headquarters and central administration at the Touro Law Center located on the Touro Law campus that will be available to:

- Assist existing and future Incubators in the successful development and ongoing management of such programs;
- Create a repository for written materials and electronic links to other resources related to law practice management and teaching law practice management;
- Facilitate research and development of innovative methods of delivering affordable legal services on site and remotely, and teaching about the delivery of such services (including well-considered and efficient use of technology in both teaching and practice);
- Advance legal education and professional conduct that insures the continued development and dissemination of legal services to moderate and low income people and small businesses and other individuals and entities who currently lack sufficient access to legal resources, and in both urban and rural locations;
- Collect and share data about Incubator and Residency programs and their graduates that can be used to help improve the curricula and conduct of the programs;
- Facilitate and coordinate access to justice initiatives and associated grant requests that multiple Consortium members may want to pursue; and



- Provide opportunities and economies of scale through group bargaining with providers of goods and services to Consortium member programs.

The principal intended beneficiaries of NCLI are institutions operating or considering the launch of an incubator, and the many members of society who will benefit from having access to well-trained attorneys who reside in such programs or who “graduate” from such programs.

### CONCLUSION

The rapid success of the Incubator movement has come about as a result of the convergence of various factors. First and foremost has been an ongoing dissatisfaction with legal education’s failure to ensure the practical/experiential training of law students. Producing law graduates who are not fully “profession ready” has diminished the quality of legal services of recent graduates working in solo or small firms, resulted in a proliferation of lawyers who create practices that fail to achieve economic viability and the departure of law graduates and new lawyers from the legal profession to other disciplines. Secondly, the economic crisis that began in 2008 drastically reduced the number of high-paying jobs in large firms and adversely impacted on the earnings of lawyers in solo and small firm practice. Furthermore, the decline in jobs in the legal profession resulted in a sharp decline in the number of individuals applying to law school. In many ways, what began in 2008 has resulted in a major shift in the economics of lawyering and in law school admissions. Thirdly, with reduced numbers of jobs for graduates, law school administrators began looking for alternative ways to support their graduates who had amassed debt while in law school and were frantically looking for job opportunities. In or around 2012, an increasing number of law school deans began looking at incubators as a tangible way to support lawyers who were faced with the idea of creating their own law practices and willing to do so. It forced law schools to actually recognize what had been a hidden truth in the profession—the largest number of private practice lawyers are in solo or small firm practice environments. While incubators have not been the answer to the woes of the legal profession and law school administrators, they have been effective in the support they give to lawyers creating the own practices.

Perhaps the most critical need facing the Incubator movement is the collection of empirical data that demonstrates the strengths and weaknesses of incubator programs. In the zeal that has been expended in getting new programs up and running, law schools, bar

associations and not-for-profit organizations that have launched incubator programs have failed to engage in baseline studies of where lawyers are when they enter an incubator and where they are one, two or three years down the road. Being able to establish the effectiveness of incubators to help lawyers develop strong skills as legal practitioners and micro entrepreneurs will help to legitimize the Incubator movement and serve as a catalyst for future incubator development. A top priority of the NCLI will be to devise a national strategy to capturing data on incubators.

I am grateful to all of the individuals across the United States and abroad who have helped to make the Incubator movement as successful as it is. I would like to give special thanks to Dean Patricia Salkin, the Touro Law faculty and community and to members of Touro Law's CJCLI for the support they given to me as my colleagues involved in incubator programs and I work to expand incubator development on Long Island, across the US and abroad.

The articles that follow present the views of faculty, practitioners, and administrators, including deans and career services professionals. I believe they add to the ideas and data available to any law school interested in exploring post-graduate options such as incubator or residency programs.

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