

# Leveraging Smart Phones and Law Students to Grow Legal Aid

Ronald Staudt, John Mayer, and Jessica Bolack Frank

## Access to Justice Problem

- 80% of the poor and working poor in the United States face their legal problems without the help of a lawyer.
- Legal aid organizations have to turn away 1 means eligible person for every 1 person they serve.
- Statewide legal aid websites can provide legal information and court form document assembly assistance, but there are thousands of forms that need to be automated to effectively assist pro se litigants.
- Law students are graduating without the requisite technical skills necessary for modern law practice.

## Our Solution

- Harness the technical prowess of digital native law students to create document assembly projects for resource strapped legal aid organizations.

Lawyers need new skills and core competencies to succeed in today's technology-driven legal practice. Document assembly and automation tools are crucial to providing quality, economical legal services in this environment. Legal educators must ensure that new attorneys are familiar with the tools and professional techniques that are becoming standard in the modern law office. These same law office automation tools can provide self-guided instructions and forms to help low income, self-represented people achieve access to justice.

The mission of an A2J Clinic is two-fold: to introduce law students to the skills required by a 21<sup>st</sup> century law office and to produce A2J Guided Interviews and other online resources that statewide legal aid organizations can use to lower the barriers to justice for low income people.

Included in this handout is an excerpt from Professor Ron Staudt's 2013 *Chicago-Kent Law Review* article from the *Justice Lawyering and Legal Education symposium* entitled, *Access to Justice and Technology Clinics: A 4% Solution*.<sup>1</sup> To learn more about the topic of our presentation, we suggest also reading the entire symposium edition.<sup>2</sup> You can find those articles at <http://kentlaw.iit.edu/institutes-centers/center-for-access-to-justice-and-technology/2013-law-review-symposium>.

You can also find videos from the symposium that was held at Chicago-Kent on June 15, 2013 at the above link.

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<sup>1</sup> Ronald W. Staudt & Andrew P. Medeiros, *Access to Justice and Technology Clinics: A 4% Solution*, 88 CHI.-KENT L. REV. 695-727 (2013).

<sup>2</sup> Symposium, *Justice, Lawyering and Legal Education in the Digital Age*, 88 Chi.-Kent L. Rev. 687 (2013).



# Access to Justice Clinical Course Project

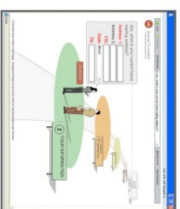
Chicago-Kent College of Law, City University of New York School of Law, Concordia University School of Law, Columbia Law School, Georgetown University Law Center, University of Miami School of Law, & University of North Carolina School of Law, Northwestern University School of Law, Hofstra University School of Law, University of Missouri-Kansas City School of Law, and Stetson University School of Law

## ACCESS TO JUSTICE

**PROBLEM:** 80 % of the poor and working poor in the United States face their legal problems without the help of a lawyer.  
**SOLUTION:** Statewide legal aid websites with document assembly and other smart tools for pro se litigants to use



**Legal Services Corporation's Summit on the Use of Technology to Expand Access to Justice, Mission Statement:**  
"...explore the potential of technology to move the United States towards providing service of some form to 100 percent of those persons with a legal need."



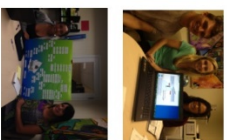
## A2J Author

Graphical user interface for document assembly projects designed by CALL and Chicago-Kent for low-income, self-represented individuals

## EDUCATION

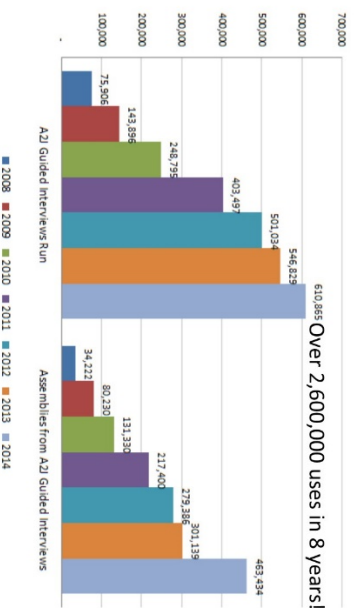
### Why teach law students to use technology to practice law?

- Deep dive into law, procedure, & heuristics
- Exposure to policy/ethical issues raised by legal services delivery & technology
- Key competencies for emerging law practice (e-lawyering, unbundling, & cloud practice)
- Key competencies for all lawyers (teamwork, project management, & empathy)



2014 law students from the A2J Clinic at the University of Miami School of Law

## National Server A2J Author Statistics



### Free tools to help you teach this course:

- A2J Clinical Project Course Kit
- Course models, syllabi, reading assignments, teacher's manuals
- Technical assistance on the software tools
- Webinars, training videos, remote TA support



### Uses for A2J Author:

Document Assembly, Online Intake, E-Filing, Triage, Benefit Eligibility Screening & Calculator, Stand Alone Info Guide



## *Access to Justice and Technology Clinics: A 4% Solution*

<sup>1</sup> by Ronald W. Staudt and Andrew P. Medeiros.

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### **Introduction**

The Great Recession of 2008 caused widespread law firm layoffs, falling salaries, and hiring freezes and may leave a generation of young attorneys searching for work.<sup>2</sup> The economic crisis included significant reductions in banking, finance, corporate restructuring and real estate transactions and reduced the need for high-priced legal services. As large law firm revenues fell, firms protected profits by reducing labor costs.

Large clients demanded discounts, fixed fee arrangements and sought efficiencies to reduce their legal spending.<sup>3</sup> As the customers of lawyers demanded “more for less”<sup>4</sup> new technologies were introduced and old technologies revived to increase the effectiveness and efficiency of law practice.<sup>5</sup> In our view these new technologies are not the cause of disruption in legal markets, but rather the tools that creative lawyers and legal consultants are using to adapt to the demands of customers of lawyers at all market levels.<sup>6</sup> But these new efficiencies and new

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<sup>1</sup> William Henderson urges a 12% solution arguing that law schools should begin to introduce competency based courses at a rate of one course per year. See William D. Henderson, *A Blue Print for Change*, 40 PEPP. L. REV. 461 (2013). We offer here a proposal for one of the three new courses, a 4% solution.

<sup>2</sup> See Leigh Jones, Vanishing Act: Year II, NAT'L L. J. (Nov. 8, 2010), [https://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202474471365&Vanishing\\_Act\\_Year\\_II&slreturn=20130401140537](https://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202474471365&Vanishing_Act_Year_II&slreturn=20130401140537); Leigh Jones, *2009 Worst Year for Lawyer Headcount in 3 Decades, Says 'NLJ250' Survey*, NAT'L L. J. (Nov. 9, 2009), [http://www.law.com/jsp/article.jsp?id=1202435276422&2009\\_Worst\\_Year\\_for\\_Lawyer\\_Headcount\\_in\\_3\\_Decades\\_Says\\_NLJ\\_250\\_Survey](http://www.law.com/jsp/article.jsp?id=1202435276422&2009_Worst_Year_for_Lawyer_Headcount_in_3_Decades_Says_NLJ_250_Survey); Debra Cassens Weiss, *40% of Firms Cut Starting Associate Pay, While 44% Consider 2010 Cut*, A.B.A. J. (Dec. 1, 2009), [http://www.abajournal.com/news/article/40\\_of\\_firms\\_cut\\_starting\\_pay\\_for\\_associates\\_while\\_44\\_consider\\_2010\\_cut/](http://www.abajournal.com/news/article/40_of_firms_cut_starting_pay_for_associates_while_44_consider_2010_cut/).

<sup>3</sup> It is still unclear if these changes mark a short term market correction or the permanent restructuring of the legal services market. Compare Bernard A. Burk & David McGowan, *Big but Brittle: Economic Perspectives on the Future of the Law Firm in the New Economy*, 2011 COLUM. BUS. L. REV. 1 (2011), with Larry E. Ribstein, *The Death of Big Law*, 2010 WIS. L. REV. 749 (2010).

<sup>4</sup> See RICHARD SUSSKIND, *TOMORROW'S LAWYERS: AN INTRODUCTION TO YOUR FUTURE* 3-5 (2013) (hereinafter *Tomorrow's Lawyers*). Susskind uses this phrase to describe how the economic changes of the recent past have repositioned the expectations of lawyers' customers across all legal services markets.

<sup>5</sup> See *infra* Part I.

<sup>6</sup> Even the ABA has decided that professionalism demands that lawyers keep abreast of the changes in the practice of law “including the benefits and risks associated with technology.” *Resolution 105A Revised (Technology & Confidentiality)*, AMERICAN BAR ASSOCIATION, (August 6, 2012) available at [http://www.americanbar.org/content/dam/aba/administrative/ethics\\_2020/20120808\\_revised\\_resolution\\_105a\\_as\\_amended\\_authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/ethics_2020/20120808_revised_resolution_105a_as_amended_authcheckdam.pdf). The American Bar Association Commission on Ethics 20/20 recommended revisions to the ABA Model Rules of Professional Conduct to provide guidance to lawyers regarding the use of technology in a professional practice. See ABA Commission on Ethics 20/20, AMERICAN BAR ASSOCIATION, [http://www.americanbar.org/groups/professional\\_responsibility/aba\\_commission\\_on\\_ethics\\_20\\_20.html](http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20.html) (last visited Apr. 28, 2013). These recommendations were adopted by the ABA's policy-making House of Delegates and include the instruction that attorneys should keep abreast of changes in the law, “including the benefits and risks associated with relevant technology.” *Resolution 105A Revised, supra*.

technologies are here to stay. Even if the gross domestic legal product returns to pre-2008 levels, the work will be forever changed.<sup>7</sup>

The ironic twist is that despite this oversupply of lawyers, we are failing to meet the legal needs of ordinary people, especially people with low or modest incomes. Every serious study of the legal needs of the poor shows that eighty percent of these needs go unmet.<sup>8</sup> Legal Services Corporation funded legal aid offices turn away a million eligible prospective clients every year because they lack the capacity and the lawyers to serve these legal needs.<sup>9</sup> In addition, millions of modest-income people who are not eligible for legal aid cannot afford the fees charged by lawyers. The economic downturn starting in 2008 exacerbated this legal services gap, driving more modest-income people into poverty and more employed people into unemployment and foreclosure.<sup>10</sup>

The oversupply of legal talent triggered attacks on law schools from all angles. Critics charged that law schools accept too many students, saddle them with massive amounts of debt, and do not adequately prepare them for a legal job.<sup>11</sup> The reduction in job opportunities for law school graduates and negative publicity already have cut deeply into the number of law school applicants.<sup>12</sup> If law schools maintain admissions standards, fewer applicants should cause a parallel reduction in the number of law students in the professional pipeline; the supply of new

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<sup>7</sup> See *Report on the State of the Legal Market* (2013), GEORGETOWN LAW CENTER FOR THE STUDY OF THE LEGAL PROFESSION, <https://www.law.georgetown.edu/continuing-legal-education/executive-education/upload/2013-report.pdf>.

<sup>8</sup> See, e.g., *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, LEGAL SERVICES CORPORATION 1 (Sept. 2009), [http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting\\_the\\_justice\\_gap\\_in\\_america\\_2009.pdf](http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf); THE LAWYER'S TRUST FUND OF ILLINOIS, ET AL., *THE LEGAL AID SAFETY NET: A REPORT ON THE LEGAL NEEDS OF LOW-INCOME ILLINOISANS* 45 (2005), available at <http://www.ltf.org/docs/legalneeds.pdf>.

<sup>9</sup> LEGAL SERVICES CORPORATION, *supra* note 8, at 9.

<sup>10</sup> See Sylvia A. Allegretto, *The State of Working America's Wealth, 2011: Through Volatility and Turmoil, the Gap Widens*, ECONOMIC POLICY INSTITUTE (2011), <http://www.epi.org/page/-/BriefingPaper292.pdf>; *Fewer, Poorer, Gloomier: The Lost Decade of the Middle Class*, PEW RESEARCH CENTER 20 (Aug. 22, 2012), <http://www.pewsocialtrends.org/files/2012/08/pew-social-trends-lost-decade-of-the-middle-class.pdf>.

<sup>11</sup> See Paul Lippe, *Structural Change in the Legal Market: Using Engagement to Turn Crisis into Opportunity at the 2013 ABA Deans' Workshop* (Def. 15, 2013); BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* (2012); PAUL CAMPOS, *DON'T GO TO LAW SCHOOL (UNLESS): A LAW PROFESSOR'S INSIDE GUIDE TO MAXIMIZING OPPORTUNITY AND MINIMIZING RISK* (2012); Peter Lattman, *9 Graduates Lose Case Against New York Law School*, N.Y. TIMES (March 22, 2012), <http://dealbook.nytimes.com/2012/03/22/9-graduates-lose-case-against-new-york-law-school/>; Elie Mystal, *NALP 2010: NALP Executive Director James Leipold Talks to the 'Lost Generation'*, ABOVE THE LAW (May 3, 2010, 1:48 PM), <http://abovethelaw.com/2010/05/nalp-2010-nalp-executive-director-james-leipold-talks-to-the-lost-generation/>; Gerry Shih, *Downturn Dims Prospects Even at Top Law Schools*, N.Y. TIMES (Aug 26, 2009), [http://www.nytimes.com/2009/08/26/business/26lawyers.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2009/08/26/business/26lawyers.html?pagewanted=all&_r=0).

<sup>12</sup> According to the Law School Admissions Council, the number of prospective law students rose somewhat consistently throughout the 2000s, but has dropped precipitously in the last few years. In the 2007-08 admission cycle, the LSAT was administered 142,331 times. The number of LSAT takes peaked in the 2009-10 admissions cycle, with the test being administered 171,514 times that year. The number of tests administered dropped 9.6% in 2010-11 and another 16.2% in 2011-12. So far in the 2012-13 testing cycle, the number of tests administered is down another 10-15%, with this being the lowest number of tests administered since 2000-01. *Data: LSATs Administered*, LAW SCHOOL ADMISSION COUNCIL, <http://www.lsac.org/lisacresources/data/lisats-administered.asp> (last visited Apr. 28, 2013).

lawyers should “right size” to match legal industry needs.<sup>13</sup> These new lawyers will need new skills. The technology changes triggered by the economic shock have changed the tools lawyers use to deliver legal services. New lawyers entering the profession must be ready to practice in today’s more efficient and more technology-driven workplace. For the most part, law schools are not currently equipped to teach these new skills and technologies.<sup>14</sup>

This article is targeted at the criticisms of the quality of legal education, criticisms that law schools fail to prepare graduates to succeed in the profession. We propose a modest improvement to the law school curriculum that may make graduates more capable to serve their clients.<sup>15</sup> We propose that law schools add a new type of clinical course that teaches law students how to use and deploy technology to assist law practice. The changes we propose will affect about four percent of the average law school curriculum. If widely adopted, the changes we propose will help law students to learn core competencies needed in an increasingly technological profession, while they build tools and write content to help low-income, self-represented litigants overcome serious barriers in their pursuit of justice.

Specifically, we propose that law schools offer a new clinical experience – the Access to Justice Technology Clinic, or A2J Clinic for short.<sup>16</sup> The Center for Computer-Assisted Legal Instruction (CALI®), in partnership with IIT Chicago-Kent College of Law, has launched its Access to Justice Clinical Course Project to develop and refine A2J Clinics. In these courses law students build web tools and other interactive content to help low-income people achieve their justice goals.<sup>17</sup> Courses of this type have been taught by several law schools in the past decade.<sup>18</sup>

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<sup>13</sup> Reducing the quantity of law graduates will be painful and cause some serious dislocation. Law schools will get smaller or at worst graduate students less qualified when they applied to law school than their predecessors were a few years ago.

<sup>14</sup> See Jeanne Eicks, *Educating Superior Legal Professional: Successful Modern Curricula Join Law and Technology*, in EDUCATING THE DIGITAL LAWYER § 5 (Marc Lauritsen & Oliver Goodenough eds., 2012), available at <https://clp.law.harvard.edu/assets/educating-the-digital-lawyer.pdf>; Stephanie Kimbro, *What Should Be in a Digital Curriculum: A Practitioner’s Must Have List*, *id.* at § 10 (hereinafter “Kimbro, *Must Have List*”).

<sup>15</sup> See Henderson, *supra* note 1.

<sup>16</sup> See *infra* Part III (discussing the Access to Justice Clinical Course Project). A catchy name for such courses is not easy to coin. We offer Access to Justice Technology Clinic as a poor first choice, shortened to A2J Clinic. Our model course taught at IIT Chicago-Kent College of Law is called the Justice and Technology Practicum. The project that the Center for Computer-Assisted Legal Instruction (CALI®) has launched to promote these courses is called the Access to Justice Clinical Course Project. The software that we use in our practicum course, written by CALI programmers to help low income people get access to information and forms on the web, is called A2J Author®. When A2J Author is used by a lawyer or law student it produces an A2J Guided Interview® for use by low-income people on legal aid websites.

<sup>17</sup> CALI, *Law Schools Team Up with CALI to Harness Skills of Law Students, Develop Online Tools for Low-Income Litigants*, ACCESS TO JUSTICE CLINICAL COURSE PROJECT (Dec. 27, 2012), <http://a2jclinic.classcaster.net/aals-announcement/>.

<sup>18</sup> Faculty members teaching course like these include Conrad Johnson, Mary Zulack and Brian Donnelly at Columbia University, Larry Farmer at Brigham Young University, Marc Lauritsen at Suffolk University, David Johnson at New York Law School, and Oliver Goodenough at Vermont Law School. See Brock Rutter, *Survey of Existing Course in Lawyer Use of Technology*, in EDUCATING THE DIGITAL LAWYER, *supra* note 14, at §6 (discussion of other courses that teach technology tools to law students). New courses built on a similar premise, that law students equipped with technical tools can break down barriers to justice, continue to be developed. See, e.g., LOYOLA LITIGANT AND TECHNOLOGY CLINIC, <http://www.loyolalawtech.org/> (last visited May 3, 2013).

This CALI initiative builds on those efforts, organizes faculty across the country into a team of collaborators, and establishes a structured process to share new insights, tools and curricula with all law schools.

Law school clinics are not the only feasible home for our proposed courses. Legal writing faculty and traditional podium teachers could also teach these courses if they were so inclined. But clinical educators are predisposed to focus on skills that go beyond legal analysis. Clinical educators are also deeply committed to access to justice and they, with their students, already provide a huge contribution to help meet the legal needs of low income people.<sup>19</sup> Like the clinical movement triggered by CLEPR in the 1960's and 1970's, we think that this new type of course will fit comfortably into the clinical curriculum of many law schools and that such additions will improve legal education and simultaneously reduce barriers to justice for low income people.<sup>20</sup>

In Part I, we describe several new examples of technology deployed by law firms, in-house legal departments, small law firms, and legal aid organizations. This expanding use of technology requires that law students learn new lawyering skills and competencies to become competent professionals.

Part II presents a detailed description of the Justice & Technology Practicum from IIT Chicago-Kent College of Law. This course serves as the model for the Access to Justice Clinical Course Project. We suggest that this course has achieved success in teaching established lawyering competencies and offering instruction in new core competencies, while simultaneously lowering barriers to justice for low-income people.

Part II charts a path into the future. The A2J Clinic Project is a collaboration of seven law schools and the CALI team to build shareable curricula, tools and resources for teachers and law students. This concluding section describes the participants and the process they will use to start a growing number of A2J Clinics across the country.

You can find the rest of this article by visiting: <http://kentlaw.iit.edu/institutes-centers/center-for-access-to-justice-and-technology/2013-law-review-symposium>

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<sup>19</sup> In 2002, David Luban estimated that law students produce nearly three million hours of legal services for the poor in a year. David Luban, *Taking Out the Adversary: The Assault on Progressive Public-Interest Lawyers*, 91 CALIF. L. REV. 209, 236 n.108 (2003) (“These assumptions (which are no better than educated guesses), imply 7,500 clinical students per semester, each contributing 200 hours of indigent representation, for a total of 1.5 million hours, or three million hours in an academic year.”).

<sup>20</sup> The Council on Legal Education for Professional Responsibility (CLEPR) was established in 1968 to encourage law school faculty members to experiment with clinical legal education to better teach law students practical and ethical skills. William Pincus, *A Statement on CLEPR's Program*, in CLINICAL LEGAL EDUCATION IN THE LAW SCHOOL CURRICULUM 1, 2 (1969). By 1980, when CLEPR concluded its mission, nearly every law school had integrated clinical legal education into their curriculum and continue to this day to provide free or low-cost legal services to Americans who need them the most. See J.P. “Sandy” Ogilvy, *Celebrating CLEPR's 40<sup>th</sup> Anniversary: The Early Development of Clinical Legal Education and Legal Ethics Instruction in U.S. Law Schools*, 16 CLINICAL L. REV. 1, 16 (2009). The success of the clinical legal education movement under CLEPR demonstrates a model to be emulated by the Access to Justice Clinical Course Project.