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Bridging the Gap between Unmet Legal Needs and an Oversupply of Lawyers: Creating Neighborhood Law Offices - The Philadelphia Experiment

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Recommended Citation

Jules Lobel & Matthew Chapman, *Bridging the Gap between Unmet Legal Needs and an Oversupply of Lawyers: Creating Neighborhood Law Offices - The Philadelphia Experiment*, 22 *Virginia Journal of Social Policy & the Law* 71 (2015).

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**BRIDGING THE GAP BETWEEN UNMET LEGAL NEEDS AND
AN OVERSUPPLY OF LAWYERS: CREATING
NEIGHBORHOOD LAW OFFICES—THE PHILADELPHIA
EXPERIMENT**

*Jules Lobel**
*Matthew Chapman***

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Jules Lobel
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In the United States there is, simultaneously, an abundance of unemployed lawyers and a significant unmet need for legal care among middle-class households. This unfortunate paradox is protected by ideological, cultural, and practical paradigms both inside the legal community and out. These paradigms include the legal chase for prestige, the consumer's inability to recognize a legal need, and the growing mountain of debt new lawyers enter the profession with.

This Article will discuss a very successful National Lawyers Guild experiment from 1930s-era Philadelphia that addressed a similar situation, in a time with similar paradigms, by emphasizing community-connected lawyering. That is, lawyering where the attorney prioritizes the client, works and is active in the community he or she seeks to serve, practices preventive lawyering, and charges fees that a working-class or middle-class person can afford. This Article then pulls this Philadelphia Experiment forward to our current time and discusses it in the light of other, more recent developments, including rural lawyer programs, the medical residency model, and crowd funding platforms. In doing so, this Article hopes to equip today's practitioners with ideas they could utilize to help bridge this gap between unmet legal needs and an oversupply of lawyers.

INTRODUCTION

A persistent tension has existed for many years between the abundance of lawyers in the United States and the difficulty or inability of many middle- and low-income Americans to afford and obtain legal representation in civil matters. More than thirty years ago, then-President Jimmy Carter told the Los Angeles County Bar Association that we have “the heaviest concentration of lawyers on earth . . . but . . . [n]inety percent of our lawyers serve ten percent of our people. We are overlawyered and underrepresented.”¹ As Harvard President Derek Bok put it several

¹ Jimmy Carter, President of the United States, Remarks at the 100th Anniversary Luncheon of the L.A. County Bar Association (May 4, 1978), in PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES JIMMY CARTER 1978, at 836 (1979).

years later, there is “far too much law for those who can afford it and far too little for those who cannot.”²

This gross inequality in access to justice has increased over time. For example, in New York, a recent New York State Task Force report found that “the access-to-justice gap continues to widen” due to the economic downturn and that, “at best, 20 percent of the need for civil legal services” for the poorest third of New York residents is being met.³ Rather than simply disregarding their unmet legal needs, many individuals are left with no choice but to navigate the court system without a lawyer. In New York, for example, 2.3 million unrepresented people appeared in state courts in 2011; specifically, ninety-eight percent of tenants in eviction cases, ninety-nine percent of borrowers in consumer credit cases, and ninety-five percent of the parents in child support matters went unrepresented.⁴

The lack of access to lawyers and justice afflicts both the poor and middle classes. Eighty percent of the civil legal needs of low-income people are unmet by lawyers and forty to sixty percent of the needs of middle-income individuals are unmet.⁵ Although abstract, these statistics reflect stories of heartbreak. Take Tina Copeland, for example. Tina had been a hard worker all her life and spent over two decades building her daycare business in the Gulf Coast.⁶ However, Tina’s day care service began to fall apart after the 2011 BP oil spill when over a quarter of her clients insisted they could not pay for daycare after their own shrimping and fishing businesses had gone under in the ocean of oil.⁷ When the billion-dollar BP settlement was announced, Tina’s claims for compensa-

² Derek C. Bok, *A Flawed System of Law Practice and Training*, 33 J. LEGAL EDUC. 570, 571 (1983).

³ Jonathan Lippman, Chief Judge of the State of N.Y., *An Evening Discussing Access to Justice*, Address Before the New York University School of Law (Oct. 24, 2011), in *Equal Justice at Risk: Confronting the Crisis in Civil Legal Services*, 15 N.Y.U. J. LEGIS. & PUB. POL’Y 247, 250 (2012); *Report to the Chief Judge of the State of N.Y.*, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVS. IN N.Y. 1, 17 (Nov., 2013), http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceReport_2013.pdf [hereinafter N.Y. TASK FORCE REPORT].

⁴ N.Y. TASK FORCE REPORT, *supra* note 3, at 20. Similarly, in California in 2005, only one in eight family law litigants had a lawyer and 34 percent of landlords and more than 90 percent of tenants were unrepresented in their housing disputes. Jeff Bleich, *The Neglected Middle Class*, CAL. ST. B.J., June 2008, <http://archive.calbar.ca.gov/%5CArchive.aspx?articleId=92107&categoryId=91968&month=6&year=2008>.

⁵ Deborah Rhode, *Access to Justice: Connecting Principles to Practice*, 17 GEO. J. LEGAL ETHICS 369, 371 (2004).

⁶ Rachel M. Zahorsky, *Biloxi Blues: Legal-Cost Fears Have Victims of the Oil Spill Sliding out of the Middle Class*, A.B.A. J. (Nov. 1, 2012), http://www.abajournal.com/magazine/article/biloxi_blues_legal-cost_fears/.

⁷ *Id.*

tion for losses resulting from the oil spill were denied.⁸ Tina, representing herself in her claims for compensation for losses resulting from the oil spill, never contested the court's denial because she was unaware of her rights in the appellate process.⁹ When asked why she never sought the help of a lawyer throughout the proceedings, Tina shook her head and said she was unable to fathom the cost.¹⁰ Tina's belief that a middle-class small-business owner could not afford a lawyer reflects the perception and experiences of millions of others.

At the same time that most Americans' legal needs go unmet, almost every state is producing more lawyers than can obtain legal employment.¹¹ Unemployment among recent law graduates is widespread.¹² Most recently the National Association for Law Placement (NALP) reported that within nine months of graduation, only 58.3% of the 44,339 responding graduates of the class of 2012 had secured a full-time, long-term job requiring bar passage.¹³ This is the lowest employment rate the NALP has ever measured.¹⁴ While many law schools responded to this crisis beginning in 2011 by reducing the size of their first-year classes,¹⁵ it is estimated that "more than twice as many people graduated with law degrees in 2012 (46,565) [than] there [were] estimated job openings

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Lucy B. Bansal, Comment, *A Lawyer for John Doe: Alternative Models for Representing Maryland's Middle Class*, 13 U. MD. L.J. RACE RELIG. GENDER & CLASS 156, 164 (2013); Catherine Rampell, *The Lawyer Surplus, State by State*, N.Y. TIMES ECONOMIX (June 27, 2011, 11:00 AM), http://economix.blogs.nytimes.com/2011/06/27/the-lawyer-surplus-state-by-state/?_php=true&_type=blogs&_r=0.

¹² Katherine Mangan, *Unemployment Among Recent Law Graduates is as Bad as it's Ever Been*, CHRON. HIGHER EDUC. (June 7, 2012), <http://chronicle.com/article/Unemployment-Among-Recent-Law/132189/> (stating that only 85.6% of law school graduates in 2011 had jobs within nine months of leaving law school); *Employment for the Class of 2012 – Selected Findings*, NALP 1, (2013), <http://www.nalp.org/uploads/Classof2012SelectedFindings.pdf> [hereinafter NALP] (reporting that the employment rate amongst 2012 graduates was 84.7% nine months after graduation).

¹³ NALP, *supra* note 12, at 2 (finding that 64.4% of graduates whose employment status was known had obtained either a part-time or a full-time a job that required bar passage).

¹⁴ *Id.* at 1.

¹⁵ ABA Section of Legal Education Reports 2013 Law School Enrollment Data, ABA (Dec. 17, 2013, 8:30 AM), http://www.americanbar.org/news/abanews/aba-news-archives/2013/12/aba_section_of_legal.html (reporting that total 1L enrollment dropped from a high of 52,488 in the fall of 2010 to 39,675 in the fall of 2013).

(21,640).”¹⁶ As such, the legal needs of most Americans and the employment needs of many lawyers remain unsatisfied.

The failure of the legal profession to provide equal, or in many cases, any access to justice for poor and middle-class Americans constitutes a failure of our commitment to the rule of law. In a nation that prides itself on its courts, the rule of law, and its commitment to the use of law to settle disputes, it is unacceptable that such a large percentage of Americans’ needs for the services of a lawyer go unmet.

Various solutions to address the lack of access to justice have been suggested.¹⁷ Proposals have been made for: the provision of more government funding for legal services organizations,¹⁸ alternative dispute resolution forums that do not require the services of a lawyer,¹⁹ the recognition of a right to legal counsel for low-income parties in civil matters affecting basic human needs,²⁰ easing the restrictions imposed on non-lawyers who furnish legal assistance,²¹ and deregulating the ownership structure of legal service providers so that non-lawyer corporations could own and run legal practices.²²

This Article will review and evaluate an alternative model—a neighborhood law office plan—that provides access to legal representation for the lower socioeconomic populations as well as meaningful employment for lawyers, particularly recent law graduates. That alternative model consists of a decentralized network of low-cost neighborhood law offices that are integrated with their local communities and that reflect certain core values of a community legal practice.

This model was successfully implemented in the 1930s in Philadelphia. Throughout the project’s 25-year span, twenty-four neighborhood law offices were established that represented over 100,000 clients. Although the lessons of the Philadelphia experiment have been disregarded

¹⁶ Joshua Wright, *The Job Market For Lawyers: Side Work on the Rise Amid Continuing Glut of New Grads*, FORBES, Jan. 10, 2014, <http://www.forbes.com/sites/emsj/2014/01/10/the-job-market-for-lawyers-side-work-on-the-rise-amid-continuing-glut-of-new-grads/>.

¹⁷ Carol J. Williams, *Another Sign of Tough Times: Legal Aid for the Middle Class*, L.A. TIMES, Mar. 10, 2009, <http://articles.latimes.com/2009/mar/10/local/me-legal-aid10>.

¹⁸ See *Spending Bill Increases Funding for LSC, Supports New Pro Bono Program*, LEGAL SERVS. CORP. (Jan. 23, 2014), <http://www.lsc.gov/media/press-releases/spending-bill-increases-funding-lsc-supports-new-pro-bono-program>.

¹⁹ Rhode, *supra* note 5, at 404.

²⁰ See CAL. GOV’T CODE §§ 68650–68651 (West, Westlaw through 2014 Legis. Sess.); *Report to the House of Delegates*, ABA 1, 12–13 (2006), http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_06A112A.authcheckdam.pdf.

²¹ N.Y. TASK FORCE REPORT, *supra* note 3, at 41.

²² George C. Harris & Derek F. Foran, *The Ethics of Middle-Class Access to Legal Services and What We Can Learn from the Medical Profession’s Shift to a Corporate Paradigm*, 70 FORDHAM L. REV. 775, 776–77 (2001).

in the current debate over access to justice, the Philadelphia experience offers a wealth of insights that could play an important role in efforts to widen the access to justice among middle-class and poor Americans. Not only could this model yield legal services to working-class people and provide employment opportunities to lawyers, but it also has the potential to reinvent the role of a lawyer from that of a detached advocate working in a corporate or business mold to one of a community problem-solver who is engaged with the community in which he or she provides services and whose practice relies more on preventative law than litigation.

Part I of this Article will explore the current state of unmet legal needs for ordinary citizens as well as the overproduction of lawyers. Part II will present the history of the Philadelphia neighborhood law office experiment, which arose out of a similar contradiction between an overabundance of lawyers and the unavailability of those lawyers to serve the interests of poor and working-class people. Finally, Part III will analyze whether and how it is possible in today's environment to set up an analogous model of interwoven, independent neighborhood law offices.

I. UNMET NEEDS—THE SCARCITY OF LAWYERS FOR THE POOR AND MIDDLE CLASS AND THE SCARCITY OF EMPLOYMENT FOR LAWYERS

A. *Defining the Unmet Demand for Legal Services in the Middle Class*

It is undisputed that there is a wide reservoir of people whose legal needs remain unmet due to the high cost and inaccessibility of lawyers. However, it is difficult to quantify the precise extent of this unmet demand for legal services. In contrast to data quantifying the number of law students graduating each year²³ and the number of those graduates who gain employment requiring bar passage,²⁴ it is difficult to define even what a “legal need” is.²⁵ Does a “legal need” refer to situations that raise any legal issue, “whether or not they [are] recognized as ‘legal’ or taken to some part of the civil justice system?”²⁶ Because the law touch-

²³ There were 46,364 law graduates in 2012. *Class of 2012 National Summary Report*, NALP (July, 2013), <http://www.nalp.org/uploads/NationalSummaryChart2012.pdf>.

²⁴ *Id.* (as of 2012 there were 28,567 law graduates).

²⁵ Catherine R. Albiston & Rebecca L. Sandefur, *Expanding the Empirical Study of Access to Justice*, 2013 WIS. L. REV. 101, 105 (2013).

²⁶ *Legal Needs and Civil Justice: A Survey of Americans*, ABA (1994) [hereinafter ABA SURVEY], <http://www.americanbar.org/content/dam/aba/migrated/legalservices/downloads/sclaid/legalneedstudy.authcheckdam.pdf>; See Comm. on Civil Justice, *Civil Legal Needs of Low and Moderate Income Households in Georgia: A Report Drawn From the 2007/2008 Georgia Legal Needs Study*, SUPREME COURT OF GA. EQUAL JUSTICE COMM'N, (June, 2009) [hereinafter GA. LEGAL NEEDS STUDY], <http://www.americanbar.org/content/>

es nearly every aspect of contemporary American life, this broad definition implicates situations that the average citizen may never consider a “legal need.”²⁷ While studies have generally preferred this broader definition, it may be argued that it is better to define a “legal need” conservatively and require the person in need to recognize the situation they are in as “legal,” so as not to overstate the problem. However, while more conservative, this narrow definition likely would fall off the other side of the horse by understating the problem. This paradigm has resulted in a broad call for more studies that break the traditional mold by approaching legal needs in a more holistic manner.²⁸

Despite the difficulty of defining and studying the full breadth of legal needs, a number of studies indicate that as much as “two-thirds of the civil needs of moderate income consumers [are] not taken to lawyers or the legal system.”²⁹ It is also noteworthy that while money is not the only reason that this connection is often not made,³⁰ high costs and a belief that legal services could not help are the two most likely reasons legal needs go unmet.³¹

Unfortunately, the most comprehensive study conducted by the American Bar Association (ABA) on the issue of legal needs was undertaken over twenty years ago in 1994.³² The 1994 study was the first large-scale national survey of the legal needs of Americans in over two decades,³³ making it the most nationally comprehensive study on the issue in nearly forty years. We are left to extrapolate much of the current state of affairs from this survey, relevant state surveys, and anecdotal stories like those of Tina Copeland. Thus, the 1994 ABA survey remains the starting point for evaluating the scope of Americans’ unmet legal needs and for revealing the reasons why these needs go unmet.

The survey found that in 1994, only thirty-nine percent of moderate-income Americans brought their legal needs to the justice system or to a lawyer.³⁴ The ABA concluded that:

dam/aba/migrated/legalservices/delivery/downloads/georgia_legal_needs_study_authcheckdam.pdf (defining legal needs very broadly).

²⁷ The more broadly a “legal need” is defined, the more potential there is that the problem is overstated. The 2008 Georgia state study may be an example of this. GA. LEGAL NEEDS STUDY, *supra* note 26, at v.

²⁸ Albiston & Sandefur, *supra* note 25, at 119.

²⁹ Rhode, *supra* note 5, at 397.

³⁰ Rebecca L. Sandefur, *Money Isn't Everything: Understanding Moderate Income Households' Use of Lawyers' Services*, in MIDDLE INCOME ACCESS TO JUSTICE 222, 222 (Michael Trebilcock et al. eds., 2012).

³¹ Rhode, *supra* note 5, at 397–98.

³² ABA SURVEY, *supra* note 26.

³³ *Id.*

³⁴ *Id.*

Reasons for not turning to the justice system when faced with a legal need differ between low- and moderate-income households. A sense that legal assistance will not help and fear of the cost are the principal reasons given by low-income respondents. Moderate-income respondents are more likely to dismiss the matter as not all that serious a problem and think they can deal with it on their own. They are less likely to cite cost considerations than low-income respondents but share the view that the justice system would not help.³⁵

Despite the self-assurance of moderate-income households, the survey also found that both low- and moderate-income households were more likely to be satisfied with the outcome of a matter if it was brought to the civil justice system, including a simple consultation with a lawyer, than if it was not.³⁶

While cost is only one factor explaining why low- and middle-class individuals have unmet legal needs, it is an important factor that has become even more significant to moderate-income households since the conclusion of the ABA's survey. A 1996 study by the California Bar Association concluded that while "the legal needs of approximately three-quarters of all poor people are not being met at all," even middle-class Californians are "still unable to afford representation in many instances."³⁷ In 2004 Professor Deborah Rhode concurred, writing that two-thirds of surveyed Americans agree that it is "not affordable to bring a case to court."³⁸ A 2008 Georgia Civil Legal Needs Study reported that as much as ninety-one percent of the combined needs of middle-class and poor Georgia citizens are not being met, and one of the presumed reasons for this was cost-related issues.³⁹ Moreover, the New York data cited at the outset of this Article suggests that as of 2013, many low- and middle-income families do not use lawyers, even when critical human needs, like housing, child custody, and consumer debt are at stake. The result is that New York families living at or below 200% of the federal poverty level have, "at best, 20 percent of [their] need[s] for civil legal services . . . being met."⁴⁰

³⁵ *Id.*

³⁶ *Id.*; See GA. LEGAL NEEDS STUDY, *supra* note 26, at 31.

³⁷ Access to Justice Working Group, *And Justice For All: Fulfilling the Promise of Access to Civil Justice in California*, CAL. BAR ASS'N (1996), <http://calbar.ca.gov/LinkClick.aspx?fileticket=EE3A11legjcl=&tabid=216>.

³⁸ Rhode, *supra* note 5, at 398.

³⁹ GA. LEGAL NEEDS STUDY, *supra* note 26, at v (defining legal needs very broadly and, in the provider survey, asking providers for input on poverty or near poverty related barriers to access, the response is that over 90% of those surveyed thought finances were a barrier).

⁴⁰ N.Y. TASK FORCE REPORT, *supra* note 3, at 19.

The rising level of unmet legal needs of middle-income Americans aligns with the twenty years of economic data collected since the ABA's 1994 survey. In 1994 the inflation-adjusted median household income of Americans was \$49,429.⁴¹ Between 1994 and 2000, the median household income increased by \$6558 to \$55,987.⁴² However, between 2000 and 2012, the inflation-adjusted median household income contracted to \$51,017, resulting in a net gain of only \$1588 or about a three percent increase between 1994 and 2012.⁴³ During a similar time period, Texas reported that the median hourly rate charged by its lawyers went from \$212 in 1994⁴⁴ to \$228 in 2000⁴⁵ before continuing the upward climb to \$238 in 2011 for an overall increase of twelve percent.⁴⁶ Other surveys report similarly high increases in average hourly legal fees. For example, in New York consumer law,⁴⁷ average hourly rates in small law firms increased from \$222 in 2000 to \$323 in 2011—a forty-five percent increase.⁴⁸

This data parallels the 1994 study's findings and suggests that the 1994 study may even understate the gravity of the problem. Today, more moderate-income households, when compared to the cost of legal services, are in the position of those low-income households in 1994. This raises the possibility that the ABA's 1994 findings that sixty-one percent of moderate-income household's legal needs are unmet is actually great-

⁴¹ Carmen DeNavas-Walt, Bernadette D. Proctor & Jessica C. Smith, *Income, Poverty, and Health Insurance Coverage in the United States: 2012*, U.S. CENSUS BUREAU, 33 tbl.A-1 (Sept. 2013), <http://www.census.gov/prod/2013/pubs/p60-245.pdf>.

⁴² *Id.*

⁴³ *Id.* This leaves the real median household only \$3917 above the 200% poverty cutoff. N.Y. TASK FORCE REPORT, *supra* note 3, at 20.

⁴⁴ Cynthia L. Spanhel, *Hourly Rates Rise as Texas Economy Booms*, 60 TEX. B. J. 1080, 1080 (1997).

⁴⁵ *2001 Hourly Rate Report*, STATE BAR OF TEX. DEP'T OF RES. & ANALYSIS (2011), <https://www.texasbar.com/AM/Template.cfm?Section=Archives&Template=/CM/ContentDisplay.cfm&ContentID=11530>.

⁴⁶ Each of the rates cited in this sentence were adjusted to 2011 dollars by the author. The original rates cited are \$140 in 1994, \$175 in 2000, and \$238 in 2011. *2011 Hourly Rate Fact Sheet*, STATE BAR OF TEX. DEP'T OF RES. & ANALYSIS (2011), http://www.texasbar.com/AM/Template.cfm?Section=Demographic_and_Economic_Trends&Template=/CM/ContentDisplay.cfm&ContentID=20499.

⁴⁷ Ronald L. Burdge, *United States Consumer Law Attorney Fee Survey Report 2010–2011*, NAT'L CONSUMER L. CTR. 1, 1 (2011), <https://www.nclc.org/images/pdf/litigation/fee-survey-report-2010-2011.pdf> (describing consumer law as a specialty area of law that deals with problems that arise from transactions involving one or more persons acting as individuals or as a family).

⁴⁸ *Id.* at 15. Authors adjusted data for inflation. Interestingly, large firms in the same practice area had almost no change in their hourly rates after adjusting for inflation.

er today and that it may even be closer to the study's seventy-one percent reported of low-income households.⁴⁹ Consequently, the data suggests that the position of middle-income legal consumers is likely worse now than it was in 1994, and it is certainly worse now than it was a decade ago. The cost of legal services is a major reason why. Apparently Tina's story is not all that anecdotal after all.

The difference between lower- and middle-income households' ability to afford legal services and the actual cost of those services is the major barrier between an oversupply of lawyers and unmet legal needs this Article considers. Other barriers discussed include educating the public on the benefit of legal services and on the local availability of lawyers. Both of these barriers can be traced to the ABA's 1994 survey in which both lower- and middle-income Americans revealed that they did not believe the justice system could help, but who were happier with the outcome when they sought recourse from the justice system.

B. Lawyers and the Market

The legal market was growing throughout much of the post-World War II era. The number of lawyers expanded from 200,000 in 1945 to 1,000,440 in 1999, and unemployment amongst lawyers was fairly low.⁵⁰ However, the legal market is currently at a crossroads. The recession of 2007 to 2009 hit both the average American and lawyers hard. In December 2007 the national unemployment rate was at five percent, and by June of 2009 the unemployment rate had risen to 9.5%.⁵¹ Consumer spending dropped from \$52,203 in 2007 to \$48,109 in 2010.⁵² Disposable personal income still has yet to recover.⁵³ Despite the economic downturn, the number of licensed attorneys grew by over 22,000 to 1,268,011 in 2013.⁵⁴

These economic conditions have had a profound impact on the legal market. It was not until the fourth quarter of 2010 that the legal services industry experienced positive growth after eight straight quarters of negative demand.⁵⁵ Through the end of 2012, however, this growth was tee-

⁴⁹ ABA SURVEY, *supra* note 26, at 18.

⁵⁰ *Total National Lawyer Counts 1878–2013*, ABA (2013), http://www.americanbar.org/content/dam/aba/administrative/market_research/total_national_lawyer_counts_1878_2013.authcheckdam.pdf.

⁵¹ *The Recession of 2007–2009*, BUREAU OF LAB. STAT., <http://www.bls.gov/spotlight/2012/recession/> (last visited Jan. 16, 2014).

⁵² *Id.*

⁵³ Phil Izzo, *Number of the Week: Disposable Income Isn't Coming Back Soon*, WALL ST. J. (Dec. 1, 2012, 5:00 AM), <http://blogs.wsj.com/economics/2012/12/01/number-of-the-week-disposable-income-isnt-coming-back-soon/>.

⁵⁴ *Total National Lawyer Counts 1878–2013*, *supra* note 50.

⁵⁵ *2014 Report on the State of the Legal Market*, CTR. FOR THE STUDY OF THE LEGAL PROF. & THOMSON REUTERS PEER MONITOR 2 (2014),

tering forward at a mere 0.5%—well below the pre-recession average of 3.9%.⁵⁶ In 2009 alone, over 10,000 lawyers and legal staffers were laid off from law firms.⁵⁷ Unlike the aftermath of the Great Depression of the 1930s, stratification of the bar provided no firewall for well-to-do lawyers, as many of those laid off were from large firms.⁵⁸ The industry downturn has resulted in too few annual job openings to keep up with each year's new crop of law school graduates, let alone those lawyers who are already licensed to practice. The NALP recently reported "Law School Class of 2012 Finds More Jobs, Starting Salaries Rise – But Large Class Size Hurts Overall Employment Rate."⁵⁹ The supporting data showed that of the 44,339 responding law school graduates of 2012, only 58.3% were employed in full-time, long-term jobs that required bar passage.⁶⁰ As discussed previously, this is the lowest employment rate the NALP has ever measured, and this trend is not expected to subside anytime soon. It is predicted that in 2020, there will be 43,979 graduates, only 27,639⁶¹ of which will find full-time, long-term positions that require bar passage. In sum, when the data from 2012 is extrapolated, it is clear that an already overburdened legal job market will not have room for the 100,000 newly minted attorneys that are produced over the next decade.⁶²

The problems afflicting the legal market are not limited to the future. With a national unemployment rate of 7.7% in February 2013,⁶³ NALP reported that the unemployment rate at that time for the class of 2012

https://peermonitor.thomsonreuters.com/wp-content/uploads/2014/01/2014_PM_GT_Report.pdf.

⁵⁶ *Id.*

⁵⁷ Debra Cassens Weiss, *2009's Toll: More Than 10,000 Law Firm Layoffs and Lower Pay Trend*, ABA J. (May 28, 2009, 3:43 PM), http://www.abajournal.com/news/article/2009s_toll_more_than_10000_law_firm_layoffs/.

⁵⁸ Law Shucks, *This Week in Layoffs: 06.13.09*, ABOVE THE L. (June 13, 2009, 1:40 PM), <http://abovethelaw.com/2009/06/this-week-in-layoffs-06-13-09/#more-698>.

⁵⁹ NALP, *supra* note 12, at 1.

⁶⁰ *Id.* at 2 (64.4% including part-time jobs); Mark Hansen, *Job Market for Would-Be Lawyers is Even Bleaker Than it Looks, Analysis Says*, A.B.A. J. (Apr. 1, 2013, 7:14 PM), http://www.abajournal.com/news/article/job_market_for_would-be_lawyers_is_bleaker_than_it_looks_analysis_says/.

⁶¹ Greg Voakes, *INFOGRAPHIC: Trends that are Reshaping the Legal Industry*, BUS. INSIDER (Aug. 1, 2012, 9:31 AM), <http://www.businessinsider.com/infographic-trends-that-are-reshaping-the-legal-industry-2012-7>.

⁶² If we were discussing overall unemployment among law school graduates as opposed to legal unemployment, extrapolating 2012's 5675 unemployed graduates over ten years would produce 56,750 unemployed graduates. NALP, *supra* note 12, at 2.

⁶³ *Databases, Tables & Calculators by Subject*, BUREAU OF LAB. STAT. <http://data.bls.gov/timeseries/LNS14000000> (last visited Sept. 18, 2014).

was 10.7%.⁶⁴ Although law schools have begun adjusting to the problem by cutting enrollment, the current backlog of jobless lawyers will take, at best, years to overcome.

II. PHILADELPHIA NEIGHBORHOOD LAW OFFICES

A. Background

In 1850 Abraham Lincoln stated that the role of a lawyer was to:

Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough.⁶⁵

Lincoln's statement reflected his position that as a country and community lawyer, his role was to help his neighbors and was not to function as a hired gun simply seeking to make a profit from law. Yet by 1900, the iconic country lawyer of Lincoln's time was replaced by the new corporate lawyer, personified by men like James Dill, who preferred to think of law as a business.⁶⁶ The counselor became the gun for hire.⁶⁷ This striking shift in American lawyering changed the profession's focus.⁶⁸ Success was no longer measured by the lawyer's learning or helpfulness in a neighborhood practice; it was now measured by the wealth or fame of his or her clients.⁶⁹ In other words, it was measured by "dollars."⁷⁰

By the 1930s, however, both the country and the legal profession were in crisis. Most Americans' economic positions were dire, and lawyers were no exception. Throughout the country, many lawyers lived at or near subsistence levels.⁷¹ For example, the median yearly income of

⁶⁴ This rate refers to graduates who were not employed in any capacity but were seeking jobs. NALP, *supra* note 12, at 2.

⁶⁵ Abraham Lincoln, *Notes for a Law Lecture*, in COLLECTED WORKS OF ABRAHAM LINCOLN 81, 81–82 (Roy P. Basler et al. eds., 1953), available at <http://www.abrahamlincolnonline.org/lincoln/speeches/lawlect.htm> (last visited Sept. 18, 2014).

⁶⁶ SAMUEL HABER, THE QUEST FOR AUTHORITY AND HONOR IN THE AMERICAN PROFESSIONS 1750–1900, at 235 (1991); George F. Shelton, *Law as a Business*, 10 YALE L. J. 275, 280 (1901).

⁶⁷ HABER, *supra* note 66, at 224; see also Shelton, *supra* note 66, at 282.

⁶⁸ Robert Treat Platt, *The Decadence of Law as a Profession and its Growth as a Business*, 12 YALE L. J. 441, 444–45 (1903).

⁶⁹ See *id.*

⁷⁰ Shelton, *supra* note 66, at 279.

⁷¹ JEROLD S. AUERBACH, UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA 158–59 (1976).

lawyers in affluent Manhattan was \$3000, and nearly half of Manhattan lawyers made less than the \$2500 poverty line for a family of four.⁷²

But the effects were not felt uniformly throughout the bar. Although corporate firms let staff go at times, lawyers were generally retained and the firms continued to grow.⁷³ In comparison, small practices with nonsalaried lawyers experienced the downturn quite differently.⁷⁴ A typical example was Phelan Beale. Although he had avoided cutting expenses from his small law practice for many years, his firm eventually took a turn for the worse. In a letter to his wife, Beale described the business's downfall and explained that he was distraught over cutting staff that had been with him for years. He was a ruined man.⁷⁵

As with today, the oversupply of lawyers mirrored an undersupply of legal services to low-income individuals. Some prominent voices in the legal community urged change. A National Lawyers Guild report argued that the practice of law in the modern urban center has "failed to provide for the legal needs of the masses of people."⁷⁶ The report proposed the establishment of a centralized legal service bureau, modeled after existing legal aid organizations, but which charged low fees designed to serve working-class people.⁷⁷ The report was widely praised and endorsed by United States Supreme Court Justice Harlan Stone.⁷⁸

A 1938 law review article written by Philadelphia Bar member Robert D. Abrahams urged a different tack to remedy the same problem. Abrahams's article in the *Dickinson Law Review* advocated that local law offices be established to provide preventative legal care to those in

⁷² Isidor Lazarus, *The Economic Crisis in the Legal Profession*, 1 NAT'L LAW. GUILD Q. 17, 18 (1937); THE NATIONAL LAWYERS GUILD: FROM ROOSEVELT THROUGH REAGAN 3 (Ann F. Ginger & Eugene M. Tobin eds., 1988).

⁷³ Peter D. Sherer, *Will There be a Changing of the Guard? Law Firm Lessons from the Great Depression*, GEORGETOWN CTR. FOR THE STUDY OF THE LEGAL PROFESSION (Mar. 22, 2010), <https://www.law.georgetown.edu/academics/centers-institutes/legal-profession/documents/upload/Conference-Papers-March-22-PeterShererfinalLessonsforUSCorporateLawFirms-Copy1-Presentation.pdf> (Milbank, Tweed & Hope went from twenty-two partners to twenty-seven between 1935 and 1940. Sullivan & Cromwell went from sixteen partners to twenty).

⁷⁴ Eli Wald, *The Economic Downturn and the Legal Profession, Foreword: The Great Recession and the Legal Profession*, 78 FORDHAM L. REV. 2051, 2053 (2010).

⁷⁵ Letter from Phelan Beale, Attorney, Bouvier & Beale, to Edith Bouvier Beale (Aug. 22, 1934), available at <http://www.lettersofnote.com/2009/11/i-dohope-my-airplane-crashes.html>.

⁷⁶ *Proposal for a Legal Service Bureau for the Metropolitan Area of Chicago*, 1 NAT'L LAW. GUILD Q. 149, 149 (1938).

⁷⁷ *Id.* at 151.

⁷⁸ *Id.* at 150.

the lower- and middle-class communities.⁷⁹ Just as Lincoln had implored almost 100 years earlier, Abrahams intended for his plan to prevent litigation. He described the plan's purposes as follows:

[T]o bring competent lawyers to people who ordinarily do not consult lawyers at all; to advise such people in plain language at rates which they could afford; to locate the service to suit the convenience of the client rather than that of the lawyer; to try at all times to prevent rather than to encourage litigation and to do all this while preserving the ancient individual relationship of lawyer and client.⁸⁰

Abrahams's Philadelphia neighborhood law offices plan was endorsed and promoted by the National Lawyers Guild, as the Philadelphia Bar Association rejected the idea and refused to endorse the plan.⁸¹ The plan consisted of a supervising committee and neighborhood offices. An agreement would be struck between the two that included five maxims of practice.⁸² In practice, it was fairly simple.

B. The Five Maxims and the Agreement

The critical element of the neighborhood law offices plan sponsored by the National Lawyers Guild was the maxims of practice that the supervising committee recommended to any participant as required for a successful neighborhood office.⁸³ These maxims, which were at the heart of the project, were: (1) preventative law is to justice what preventative medicine is to health; (2) it is the dignity of the client—not that of the lawyer—which counts; (3) the lawyer should not be remote from his client either in geography or in understanding; (4) the lawyer who makes a mystery of his fees makes a critic of his client; and (5) the lawyer who gives a service earns a fee.⁸⁴ The first four of these maxims can be summarized as “Be a part of the neighborhood you aim to serve.”⁸⁵ As Abrahams wrote, “the neighborhood lawyer, in order to establish his practice, must be more than a man who merely sits in his office wishing

⁷⁹ Robert D. Abrahams, *Law Offices to Serve Householders in the Lower Income Group*, 42 DICK. L. REV. 133, 134 (1938) (this group was defined as consisting of those just above the legal aid eligibility line).

⁸⁰ Robert D. Abrahams, *The Neighborhood Law Office Plan*, 1949 WIS. L. REV. 634, 634 (1949).

⁸¹ Robert D. Abrahams, *The Neighborhood Law Office Experiment*, 9 U. CHI. L. REV. 406, 407–08 (1942).

⁸² *Id.* at 410–11.

⁸³ Robert D. Abrahams, *Twenty-Five Years of Service: Philadelphia's Neighborhood Law Offices Plan*, 50 A.B.A. J. 728, 729 (1964).

⁸⁴ Robert D. Abrahams, *Neighborhood Law Offices: A Letter to a Lawyer*, 1 LAW. GUILD REV. 1, 3–4 (1940).

⁸⁵ Abrahams, *supra* note 83, at 729.

he were down-town”; the neighborhood lawyer must “participate in the life of his neighborhood.”⁸⁶ The fifth factor, while a maxim, can also be regarded as a differentiating element between the neighborhood law office and traditional legal aid for the poor, since those who could not pay for service were referred to legal aid.⁸⁷

These maxims blossomed into a robust agreement between the supervising committee and the neighborhood offices.⁸⁸ While this agreement originally required that the participating attorneys have partners and only open their offices part-time, these conditions eventually faded away as the office model became established.⁸⁹ The instruction manual that was provided to participating attorneys listed many of the remaining requirements.⁹⁰ For example, originally the offices were required to charge only \$1 for the first half-hour interview. Twenty-five years later, this rate had increased to \$3.⁹¹ There were also listed procedures in place for client complaints.⁹² Further, individual offices were responsible for all set-up capital, and sharing of funds or profits between offices was not permitted. No criminal work was to be done at the offices, nor was there to be any publicity by individual offices. Finally, the committee was vested with the authority to cancel the agreement at any time.

While these five maxims and the basis of the neighborhood law office plan seemed simple, they represented an outright rejection of the law-as-business model that, by the 1930s, was predominant in the legal community.⁹³ Perhaps that dissonance with the contemporary understanding of lawyers was responsible for the resistance of the Philadelphia Bar Association to the plan. The neighborhood offices, by reasserting the ideals of service to a local community and the dignity of the client, raised community service above the concept of self-interested profit

⁸⁶ Abrahams, *supra* note 84, at 3.

⁸⁷ Abrahams, *supra* note 80, at 638.

⁸⁸ Abrahams, *supra* note 81, at 409–11 (listing twenty-two original requirements).

⁸⁹ *Id.* at 409–10.

⁹⁰ Abrahams, *supra* note 83, at 729.

⁹¹ *Id.*

⁹² There was only one minor complaint during the eighteen-month experimental stage.

⁹³ HABER, *supra* note 66, at 213. Interestingly, the American Bar Association formed in 1878, in part to deal with the changing of the profession and adopted as one of its four principal aims in article I of the ABA constitution to “uphold the honor of the profession of Law.” *Constitution and Bylaws*, ABA art. 1, § 1 (2011–2012), http://www.americanbar.org/content/dam/aba/administrative/aba_constitution_and_bylaws.authcheckdam.pdf. This can be contrasted with Abrahams’s second maxim, that it is “the dignity of the client—not that of the lawyer—which counts.” Abrahams, *supra* note 84, at 3–4.

maximization.⁹⁴ The resulting model explicitly rejected “lawyers . . . using their specialized knowledge to enable the rich and powerful to exploit the poor and ignorant while enriching themselves in the process.”⁹⁵ The five maxims and the public service context in which they were to be applied were nothing less than the reassertion of the legal profession as lawyers serving the community in which they lived, as opposed to those professionals only serving the elite who could afford to pay high prices.⁹⁶ The question remained: would it be possible to establish and maintain neighborhood law offices for working-class and middle-income people based on the five maxims?

C. *The Experimental Stage and the Committee*

The maxims were put into practice during an eighteen-month experimental stage that began on November 1, 1939.⁹⁷ The purpose of this experimental stage was:

[T]o determine whether or not the public wished a service which it was not then receiving. We also wanted to test out the practice of preventive law. We knew that the big businessman had been accustomed to consult his lawyer before taking any important step in his affairs, but we suspected that the householder had not. We thought it likely that we would find that the householder usually waited until the necessity for immediate litigation arose before consulting a lawyer. In addition, we wished to learn whether or not a plan of this sort would be helpful to the economics of the legal profession, particularly in aiding young lawyers to obtain a practice.⁹⁸

For these ends a supervising committee was established. This committee (1) had no financial interest in the outcome, (2) made a preliminary effort to determine which neighborhoods were most desirable for the offices, and was responsible for (3) oversight of the offices, and (4) publicizing the plan.⁹⁹

⁹⁴ Some have argued that the profession of law’s transformation into a business has been spurred on by the theories of law and economics and its progenitors. Norman Bowie, *The Law: From A Profession to A Business*, 41 VAND. L. REV. 741, 755 (1988).

⁹⁵ *Id.* at 744.

⁹⁶ *Id.* at 743. Others may call this a reassertion of the “ideal of the lawyer-statesman” on a neighborhood level. See ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* (1993).

⁹⁷ Abrahams, *supra* note 81, at 412.

⁹⁸ *Id.* at 408.

⁹⁹ *Id.* at 407. It is noteworthy that at the time, publicizing legal services was in its infancy. The idea that those publicizing the Offices had no financial interest in the offices seemed necessary. This is unlikely to be true today. *Id.* at 408.

The committee was originally comprised of seven local lawyers but added an eighth about a year after the experiment launched.¹⁰⁰ The committee identified four local Philadelphia communities for opening day offices, which were found by eliminating areas with high legal aid rates, high rental rates, and a greater proportion of individual detached houses.¹⁰¹ The committee also eliminated communities with neighborhood lawyers already in place, as it was not interested in threatening established practices.¹⁰²

The committee then sought personnel to fill the four part-time offices, and to their surprise, 142 local lawyers responded to a “whispering campaign” seeking interest.¹⁰³ Due to the high response rate, six offices were opened instead of the four that were anticipated.¹⁰⁴

Encouraged by such interest, the committee turned its focus to publicizing the openings and educating the public. Local newspapers were some of the first to run the story.¹⁰⁵ On opening day one local newspaper went so far as to send a reporter undercover to one of the offices as a client seeking a divorce.¹⁰⁶ To the credit of the preventative model and the servicing attorney, the office lawyer recommended reconciliation to the reporter instead of a divorce, despite it being clear that the lawyer would have made significantly more in legal fees had a divorce been suggested.¹⁰⁷ You could say that this was the moment that the hook was set.¹⁰⁸ The local community was intrigued by the prospect of honest and diligent neighborhood lawyers.¹⁰⁹

The committee’s efforts at educating the community about the need for preventative legal care also paid dividends to the local offices and possibly the bar as a whole. These efforts included a weekly bulletin in local newspapers that focused on interesting legal issues, as well as forming an Institute in Preventative Law.¹¹⁰ The Institute offered legal courses to the local community that focused on teaching the public how to recognize a legal situation, as well as emphasizing the benefits of preventative legal care.¹¹¹ This effort, when combined with the forms each

¹⁰⁰ *Id.* at 408.

¹⁰¹ *Id.* at 411–12.

¹⁰² *Id.* at 411.

¹⁰³ *Id.* at 412.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* at 416.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 420, 422.

¹¹¹ *Id.* at 423.

client was required to fill out, can be regarded as one of the original attempts to make a "legal need" quantifiable.¹¹²

D. The Office and the Client

Running a neighborhood office had its own quirks. For example, it was determined that foot traffic was one of the most important factors in the success of the offices.¹¹³ For this reason, offices were often placed near "5c and 10c" stores with nearby movie theatres.¹¹⁴ The plan also focused on bringing the law to common people both in place and in culture. The result was that on November 1, 1939, when the offices opened, not a single one had spent more than \$90 on office furniture.¹¹⁵ "[H]igh falutin'" furniture was seen as a cultural put off.¹¹⁶

Originally, all the offices were open part-time and each had between two and four partners.¹¹⁷ One of the continual objectives of the participating attorneys was to enter into the life of the local community. For this reason many of the originating attorneys lived near the community office.¹¹⁸ This allowed, as the maxims urged, the law offices to be a part of the communities in which they were located. Additionally, early in the plan, offices were used in other capacities such as polling places on Election Day.¹¹⁹ At one point, a partnership was elected solicitor general of the local businessman's organization, and one office was even used as the headquarters for a community credit group.¹²⁰

In the first year of the Philadelphia plan, one of the prototypical offices served 127 clients, not one of whom had ever consulted with a lawyer. The office incurred expenses of \$365.50 and collected fees of \$660.53, subsequently receiving \$302.00 in the second year from its first-year cases.¹²¹ This office had two partners, each of whom contributed fourteen hours a week to the effort.¹²² With these numbers it is easy to see why the program started with attorneys who could supplement their Philadelphia plan income with earnings from another practice. However,

¹¹² *Id.* at 413, 419 (each client had to answer the question of whether they ever previously visited an attorney).

¹¹³ *Id.* at 419.

¹¹⁴ Abrahams, *supra* note 80, at 642.

¹¹⁵ Abrahams, *supra* note 81, at 415.

¹¹⁶ *Id.* at 411; Abrahams, *supra* note 80, at 641.

¹¹⁷ Abrahams, *supra* note 81, at 416.

¹¹⁸ This was one of the elements the Committee looked at in deciding which lawyers could participate. *Id.* at 412.

¹¹⁹ Abrahams, *supra* note 81, at 416.

¹²⁰ *Id.*

¹²¹ *Id.* at 418.

¹²² *Id.*

by the fourth year, the typical office cleared an average of \$5000 in profits.¹²³

Even with the beginning of World War II and the drafting of some participating attorneys to serve in the war, growth in the offices continued. By the time the War was over, the plan had seven offices that served 2984 clients annually, and, by 1948, the plan had produced eleven offices that served 4214 clients annually.¹²⁴

The clients served by the plan during its experimental phase constituted a true cross section of middle-income America, including “school teachers, clergymen, day laborers, skilled laborers, civil service employees and (at one office only) farmers.”¹²⁵ Housewives and skilled laborers comprised the largest client bases, as each represented twenty-two percent of the total client population,¹²⁶ while small business owners (“storekeepers”) like Tina made up about eight percent of clientele.¹²⁷ Of these individuals, eighty-two percent claimed to have never visited an attorney before, and only five percent of the clients sought help with matters involving litigation.¹²⁸ Ultimately, less than two percent of the total clientele actually litigated their problems.¹²⁹

The matters on which these clients sought counsel included domestic advice (fourteen percent), contracts (thirteen percent), landlord/tenant law and real estate (nine percent each), and lesser amounts on other matters such as estates, wills, insurance, and property.¹³⁰

E. Success

The National Lawyers Guild’s Philadelphia neighborhood law offices plan was quite successful. A decade after the plan’s initiation, the offices produced reasonable income for the lawyers, served over 4000 clients annually, and still charged only \$1 for an initial half-hour consultation.¹³¹ The offices clearly served an important, unmet public need. Their efforts were met with enormous amounts of favorable publicity, and their accomplishments were touted in local newspapers and major national magazines such as the *Saturday Evening Post* and *The Atlantic Monthly*.¹³² Within the first few years of the plan, over thirty lawyers’ committees from other cities visited Philadelphia to observe the neighborhood offices, including delegations from the California Bar As-

¹²³ *Id.* When adjusted for inflation, \$5000 in 1943 is just over \$67,000 in 2014.

¹²⁴ Abrahams, *supra* note 80, at 643.

¹²⁵ *Id.* at 638.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.* at 639.

¹³¹ Abrahams, *supra* note 80, at 635, 637.

¹³² *Id.*; Abrahams, *supra* note 81, at 420.

sociation, the ABA, and the Pennsylvania Bar Association.¹³³ Each of these committees issued reports.¹³⁴

Twenty-five years after opening day, in 1964, the neighborhood law office plan had twenty-four offices open and running and had served well over 100,000 clients.¹³⁵ Much of this success was attributed to the guiding maxims of practice, summarily stated as, “[b]e a part of the neighborhood you aim to serve.”¹³⁶ However, other factors may also have contributed to the project’s success. For example, the participating lawyers were extremely excited about the opportunity to be a part of the plan and often left city practices to work in the neighborhood offices. These lawyers put a lot of stock in the confidence shown to them by the local community and found the work of the neighborhood law office made for a gratifying career.¹³⁷

Another factor that the founder, Robert D. Abrahams, thought contributed to its success was the simplicity of the plan. There was no bureaucracy, in part because there was no government subsidy.¹³⁸ Offices stood or fell by the initiative of the lawyer with the help of the committee.¹³⁹ In words that Lincoln would be proud of, Mr. Abrahams stated that the plan has “shown a way in which the old relationship of attorney and client can be preserved without socialization and without bureaucracy.”¹⁴⁰

The neighborhood law office program was perhaps most important in the way it reconceived the role of a lawyer and redefined the relationship between the lawyer and the community. As historian Gerald Auerbach has noted, “[t]he neighborhood law office was part of a more ambitious [National Lawyers] [G]uild proposal to shift the professional ethos from traditional individualism that best served corporations and corporate lawyers to cooperative planning that met the needs of the bar’s middle stratum and their potential clients.”¹⁴¹ Guild publications suggested that the “development of cooperatives” was a viable way to provide for low cost legal services.¹⁴² This required “[a] drastic revision of . . . methods of practice . . . [in order to] encourage the development of group practice.”¹⁴³ Or as Wisconsin Law School Dean Lloyd Garrison

¹³³ Abrahams, *supra* note 81, at 421.

¹³⁴ Abrahams, *supra* note 81, at 421.

¹³⁵ Abrahams, *supra* note 83, at 728.

¹³⁶ *Id.* at 729.

¹³⁷ *See* Abrahams, *supra* note 81, at 425.

¹³⁸ Abrahams, *supra* note 83, at 729.

¹³⁹ *Id.*

¹⁴⁰ Abrahams, *supra* note 80, at 647.

¹⁴¹ AUERBACH, *supra* note 71, at 207.

¹⁴² Alex Elson, *Extending Legal Service to the Low and Moderate Income Groups*, 8 *LAW. GUILD REV.* 295, 298 (1948).

¹⁴³ *Id.*

told the 1938 Guild Convention, “we ought to lend more of a hand to each other and to the people, to get down closer to the life of the people.”¹⁴⁴ Garrison criticized the detachment of many successful lawyers from “the living sources of the law, and from the day-to-day ills and aspirations of the multitude,” and called for the creation of “new kinds of organization, and new centers of cooperative activity” that would occasion “a humanizing of the bar.”¹⁴⁵ The neighborhood law offices program was a successful illustration of this “new kind of organization.”

It is curious that the Philadelphia neighborhood law office plan was not emulated in other cities given its evident success, the same needs present in many other urban centers, and the enormous interest the plan sparked. Perhaps one reason was that the National Lawyers Guild and other critics began to influence the ABA and traditional bar associations.¹⁴⁶ Such entities put pressure on these organizations to develop bar referral plans in Chicago, Philadelphia, Los Angeles, and other cities as a way of making lawyers’ services more accessible to lower-income groups.¹⁴⁷ Indeed, eventually the Philadelphia Bar Association embraced the neighborhood offices and made them a service of their own bar in 1956—both the offices and a bar referral service continued until at least 1964.¹⁴⁸ While efforts at broadening referral services may have eventually undercut the need to emulate the Guild neighborhood law office program, the referral services relied on lawyers who would not have been practicing according to the Philadelphia plan’s community service model, despite their wanting to provide services to working-class and middle-income groups. Perhaps now, with the crisis in the delivery of affordable legal services to moderate-income individuals and communities being so evident, the time is ripe to recreate the neighborhood law office model.

III. REPLICATING THE PHILADELPHIA EXPERIMENT’S SUCCESS TODAY AND THE PROBLEM OF FUNDING

A. Replication of the Neighborhood Law Offices Today

With the right lawyers, the right neighborhoods, a supportive committee, and some mechanism that enables established lawyers to play a helpful role, it seems possible that the neighborhood law office plan could succeed today. The model not only addresses the problem of unaf-

¹⁴⁴ Lloyd K. Garrison, *The Legal Profession and the Public*, 1 NAT’L LAW. GUILD Q. 127, 131 (1938).

¹⁴⁵ *Id.*

¹⁴⁶ See AUERBACH, *supra* note 71, at 346–47 n.45 (explaining the Guild’s influence on the organized bar).

¹⁴⁷ See, e.g., Abrahams, *supra* note 81, at 425–26 (mentioning Chicago and Los Angeles Bar Associations’ plans set up in the 1940s).

¹⁴⁸ Abrahams, *supra* note 83, at 728–29.

fordable legal services, but also confronts some of the other reasons why people do not use lawyers—such as their distrust of the legal community and their feeling that lawyers will not really help them solve their problems. By rooting the law offices and the lawyers in community engagement, preventative law, and finding solutions to legal problems without resorting to litigation, the neighborhood law offices plan not only lowered costs, but also built trust. It is noteworthy that, in the original plan, established lawyers comprised a committee to oversee and supervise the process. Today, comparable oversight by experienced lawyers or even law school professors could be transformed into a similar mentoring relationship that would enable recent law graduates to respond to the unmet legal needs of low- and middle-income groups.¹⁴⁹ Indeed, some legal experts have called for a very similar venture, and a number of law schools have developed what are termed incubators to mentor and provide resources to some of their recent graduates to enable them to start and develop a private practice serving working-class and middle-income clients.¹⁵⁰

Enlisting help for this project should not be difficult. Given the dearth of legal employment, many recent law school graduates and more experienced lawyers should be interested in participating in neighborhood law offices as either lawyers, mentors, or committee members. In 2007, lawyers in large firms were reported to be “far and away the least satisfied” with their careers¹⁵¹ while lawyers from smaller firms and sole practitioners were more satisfied with their careers, at least in part due to the freedom they experienced in these smaller settings.¹⁵² However, by a significant margin, the most satisfied were those lawyers with public sector careers.¹⁵³ In 2010, factors that were correlated with a lawyer’s career satisfaction were: (1) the degree to which the lawyer sees his or

¹⁴⁹ Nearly every major law firm recognizes the need for mentoring of young associates and sees this as a critical part of entering the practice of law. The neighborhood law office committee could perform the same function as a partner would, although, liability issues may need to be ironed out. See *Mentoring Programs – Law Firms*, NAT’L LEGAL MENTORING CONSORTIUM, <http://www.legalmentoring.org/mentoringprograms.php?id=30> (last visited Mar. 6, 2014).

¹⁵⁰ G.M. Filisko, *Law Firm Incubators Help Both Grads and Needy Clients*, Fred Rooney Says, A.B.A. J. (Sept. 18, 2013, 1:30 PM), http://www.abajournal.com/legalrebels/article/2013_legal_rebel_profile_fred_rooney/ (law schools are beginning their own programs using professors to mentor graduates entering solo practice). See also Kendall Coffey, *Underserved Middle Class Could Sustain Underemployed Law Graduates*, NAT’L L.J. (2012) (Coffey advocates for postgraduate support from law schools including expert attorney networks to allow newly minted graduates to enter middle-class practice).

¹⁵¹ Stephanie Francis Ward, *Pulse of the Legal Profession*, A.B.A. J. (Oct. 1, 2007, 12:12 PM), http://www.abajournal.com/magazine/article/pulse_of_the_legal_profession/.

¹⁵² *Id.*

¹⁵³ *Id.*

her work as contributing to the betterment of society, (2) the latitude the lawyer has to make key decisions about the shape of work products and services, (3) the amount of creative challenge his or her work affords, and (4) the frequency and quality of interactions in the lawyer's work.¹⁵⁴ In fact, the most disappointing aspect of a lawyer's career, when compared to their expectations, has been reported to be their "[in]ability to contribute to the public good."¹⁵⁵ In light of these survey results, it becomes evident that we left something behind when the profession went from Lincoln to Dill. A substantial proportion of lawyers today entered law school with the hope of making a difference in the community, so long as they could do so without starving.¹⁵⁶ For this reason alone, it seems likely that the plan, if revived today, would garner a plethora of applicants for lawyer and committee member positions as both roles offer the opportunity to make a difference.

However, there is at least one significant barrier to implementing a full-time neighborhood law office model in the current climate: adequate funding. It is not likely that today's unemployed lawyers have an established practice that could supplement their income from the neighborhood office. They are also likely to have massive amounts of debt, primarily in the form of student loans, which impedes participation in such a scheme.¹⁵⁷ While it may be possible to find some experienced attorneys who wish to start an office and who are capable of supplementing their income, these attorneys do not represent the oversupply of lawyers. Thus, in order to meet the overwhelming needs of moderate-income households, it would be more prudent to find a way in which new law school graduates could participate so that legal involvement in the plan is maximized. Therefore, the debt barrier must be addressed.

The ABA has documented that the rising law school debt burden is a significant barrier to law school graduates' entry into public service jobs.¹⁵⁸ Loan forgiveness programs have ameliorated this issue for some of those taking on public service roles. However, no similar program exists for those entering positions to provide affordable legal services to

¹⁵⁴ Jill Schachner Chanen, *Are You Happy Now?*, A.B.A. J. (Nov. 1, 2010, 3:34 AM), http://www.abajournal.com/magazine/article/are_you_happy_now/.

¹⁵⁵ *Id.*

¹⁵⁶ Howard S. Erlanger et al., *Law Student Idealism and Job Choice: Some New Data on an Old Question*, 30 CONTEMP. L. & SOC'Y REV. 851, 853 (1996). *But cf.* Todd A. Berger, *Jimmy Carters "Malaise" Speech, Social Desirability Bias, and the Yuppie Nuremberg Defense: The Real Reason Why Law Students Say They Want to Practice Public Interest Law, Yet So Few Actually Do*, KAN. J.L. & PUB. POL'Y, 139, 142 (2012) (questioning the authenticity of this desire to serve in public interest careers).

¹⁵⁷ ABA Comm'n on Loan Repayment & Forgiveness, *Lifting the Burden: Law Student Debt as a Barrier to Public Service*, ABA (2003), <http://www.americanbar.org/content/dam/aba/migrated/legalservices/downloads/lrap/lrapfinalreport.authcheckdam.pdf>.

¹⁵⁸ *Id.*

working-class or middle-income Americans. Further, while different features of the plan, such as the aforementioned mentoring program,¹⁵⁹ which provides recent law graduates with free legal supervision, could help alleviate some of this burden, it is unclear whether this on its own would be sufficient. Small efforts in various cities today suggest that it is possible to run a low-cost neighborhood law office and still make a decent living, but a great many cautionary tales accompany these efforts.¹⁶⁰ Additional funding sources are necessary in order to develop the plan on a scale large enough to really put a dent in both the unmet legal needs and the oversupply of lawyers.

Several models discussed below could be utilized to solve funding problems. It is helpful to keep in mind that the prohibitive cost of legal services that at least in part increases the amount of unmet legal needs in the middle class is artificially inflated by law school graduates' need to pay off their rising student loan debt. This money gap must be bridged.

B. Subsidy: South Dakota's Rural Lawyer Plan

One solution to the funding problem was highlighted in the *New York Times* on April 9, 2013, in an article that reported, “[r]ural Americans are increasingly without lawyers even as law school graduates are increasingly without jobs. Just 2 percent of small law practices are in rural areas, where nearly a fifth of the country lives”¹⁶¹ One solution that was discussed was South Dakota’s “rural attorney recruitment” bill, signed into law on March 21, 2013, which offered up to sixteen applicants the opportunity to take place in a pilot program.¹⁶² This program provided a \$12,000 per year subsidy to participants so long as they committed five years to service in a South Dakota county with a population of 10,000 or fewer.¹⁶³ Thirty-five percent of the subsidy was to be

¹⁵⁹ Coffey, *supra* note 150 (advocating for postgraduate support from law schools including expert attorney networks to allow newly minted graduates to enter middle-class practice).

¹⁶⁰ Standing Comm. on the Availability of Legal Servs., *ABA Affordable Legal Services*, ABA, http://www.americanbar.org/groups/delivery_legal_services/resources/programs_to_help_those_with_moderate_income.html (last updated July 7, 2014). The author investigated a handful of the practices on this list and was disappointed to find that, of those investigated, one had moved out of its strip mall office for a firm setting with a corresponding shift of clientele, one’s operations were suspended due to funding issues, one was not accepting new cases, one was more of a referral service than a practice, and a handful of others appeared to serve only a pro bono capacity or were simply using unbundled services.

¹⁶¹ Ethan Bronner, *No Lawyer for Miles, So One Rural State Offers Pay*, N.Y. TIMES, April 9, 2013, <http://www.nytimes.com/2013/04/09/us/subsidy-seen-as-a-way-to-fill-a-need-for-rural-lawyers.html?smid=pl-share>.

¹⁶² H.B. 1096, 2013 Leg., Reg. Sess. (S.D. 2013), <http://legiscan.com/SD/text/HB1096/2013>.

¹⁶³ Bronner, *supra* note 161.

paid by the rural county, fifteen percent by the South Dakota Bar and the remaining fifty percent by the state.¹⁶⁴ Here, South Dakota's Unified Judicial System plays the part of the Neighborhood Office Committee by supervising and performing county-need assessments.¹⁶⁵ In comparison with the federal National Health Services Corporation, which provides significantly larger subsidies to doctors in both rural and urban areas, this experiment is a pinprick, but an interesting one.¹⁶⁶

The South Dakota program offers an opportunity for other bar associations to gather information on the feasibility of subsidizing a lawyer's pay. While the problem of a shortage of rural lawyers can be distinguished from the problem of a lack of affordable middle- and working-class legal fees, both rural citizens' proximity issue and lower- and middle-class citizens' cost issue could be alleviated by the same subsidies. In fact, by tying South Dakota's subsidy to the 2013 tuition rate it appears as though the bill was designed to address law graduates' debt barrier.¹⁶⁷

The Philadelphia neighborhood office committee also explored the possibility of subsidies in 1939.¹⁶⁸ While a minority of the committee members thought subsidies might have been necessary for the first year or two of the program, a majority thought the negatives of added bureaucracy outweighed any possible advantage.¹⁶⁹ The issue was settled when it was determined that subsidies would result in at least a year delay to the plan.¹⁷⁰

The committee's reluctance was, perhaps, understandable. A danger exists that governmental or bar association subsidies could result in a bureaucratic structure or restrictions. However, the South Dakota model seems to involve minimal bureaucracy. Moreover, in South Dakota county subsidies are in part justified by the argument that lawyers are "economic generator[s]" whose presence benefits the entire county.¹⁷¹

¹⁶⁴ Debra Cassens Weiss, *South Dakota Lures Lawyers to Rural Areas with Annual Subsidies*, A.B.A. J. (Apr. 9, 2013 6:43 AM), http://www.abajournal.com/news/article/south_dakota_lures_lawyers_to_rural_areas_with_annual_subsidies/.

¹⁶⁵ H.B. 1096.

¹⁶⁶ Bronner, *supra* note 161. As of April of 2014 the South Dakota program had only signed up two of the possible sixteen applicants, although there were many more applications in the works. Nicole Logan, *Project Rural Practice – Spring 2014 Updates*, STATE BAR OF S.D. PROJECT RURAL PRAC. (Apr. 28, 2014), <http://sdrurallawyer.com/project-rural-practice-spring-2014-updates/>.

¹⁶⁷ H.B. 1096. The \$12,000 figure is arrived at by applying the 90% statutory rate to the 2013 tuition rate.

¹⁶⁸ Abrahams, *supra* note 81, at 409.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ See Marcus Traxler, *South Dakota Looks to Pioneer Rural Lawyer Program*, RAPID CITY J. (Jul. 8, 2013), http://rapidcityjournal.com/news/south-dakota-looks-to-pioneer-rural-lawyer-program/article_85be3d62-2f1b-50a5-9602-bf74cc2e60ed.html.

Whether the same value is added in an urban setting where lawyers are plentiful is a more questionable proposition, although it seems clear that the cost of lawyers in poor or working-class urban areas is as significant a barrier to access to legal assistance as the hundreds of miles are in South Dakota.

The South Dakota model of a shared burden may be instructive for any bar association or legislature that is interested in subsidizing recent graduates who want to work in poor or underserved rural or urban areas. For example, a local bar association could pay fifteen percent of the subsidy, thirty-five percent could be paid by a participating law school,¹⁷² and the remaining fifty percent could be sought as grants from national charitable organizations. This model would be devoid of the government bureaucracy that was thought to be so dangerous to the plan in the 1930s and 40s.

It is also worth noting that the shortage of rural lawyers is not simply a South Dakota issue. Rural counties across the country have to deal with the problem of aging or retiring attorneys who leave the profession without replacements.¹⁷³ For this reason the South Dakota experiment is being closely followed in other states.¹⁷⁴ While the Philadelphia plan discussed here was implemented in an urban setting, there is little reason why it could not also be useful in solving the rural lawyer crisis, so long as startup supplemental funding is secured.¹⁷⁵

C. Using the Medical Residency Model to Help Establish Neighborhood Law Offices

A second alternative for solving the supplemental funding gap involves implementing fundamental changes to the legal education system. In a February 17, 2013 *New York Times* op-ed, Dean of Rutgers School of Law, John J. Farmer Jr., kicked off the most recent round of debates on whether the American legal system ought to adopt a medical residen-

¹⁷² This could be paid either in debt forgiveness or in cash and may be particularly applicable if the student attended a university that is close in proximity to the office.

¹⁷³ See Christopher Johnson, *South Dakota Strives to Keep Attorneys in Rural Counties*, NACO (Apr. 22, 2013), <http://www.naco.org/newsroom/countynews/Current%20Issue/4-22-2013/Pages/South-Dakota-strives-to-keep-attorneys-in-rural-counties.aspx>.

¹⁷⁴ Interestingly, Iowa has started a rural summer clerkship program designed to address the same problem. See Kyle Munson, *Clerkships Could Produce Next Crop of Rural Lawyers*, DES MOINES REG., June 2, 2012, <http://archive.desmoinesregister.com/article/20120603/NEWS03/306030048/Munson-Clerkships-could-produce-next-crop-rural-lawyers>.

¹⁷⁵ Lawyers moving from downtown to rural counties are not as likely to be able to bring established clients with them, although in the internet age this may not be as true as it used to be.

cy model.¹⁷⁶ Dean Farmer argued that law schools ought to be two-year programs with a follow-on two-year residency at law firms. Students would work at reduced rates for a stipend in these residencies, but would have the flexibility to work on any type of law the firm required.¹⁷⁷ He believed this would reduce the cost of legal services and reduce the debt burden for students—two major barriers to the oversupply of lawyers meeting the legal needs of the middle class.¹⁷⁸

Dean Vincent D. Rougeau of Boston College Law School is among the individuals who have supported Dean Farmer. Dean Rougeau argues more broadly that globalization will force America to innovate or get left behind.¹⁷⁹ As a case-in-point, he reminds the reader that the United Kingdom's Legal Services Act of 2007 already permits corporate ownership of law firms. He argues that this is likely to lead to more innovation in the global legal market, including outsourcing of legal work and digitization of other work. While some argue that corporate ownership itself could reduce costs of legal services for the middle class,¹⁸⁰ Dean Rougeau's solution does not take that approach. Much like Dean Farmer's two-year residency plan, he argues for collaboration between law schools and employers that is mediated by the ABA and that will result in a cost-sharing apprenticeship during the law students' third year.¹⁸¹

The model presented by Dean Rougeau is similar to Canada's "articling" model, in which Canadian law students are required to apprentice at a certified law firm for ten months upon graduation prior to being called to the bar.¹⁸² This system has been justified as being necessary to teach students practical legal skills and not as a means of reducing legal costs.¹⁸³ While some see the comparison between Dean Rougeau's mod-

¹⁷⁶ John J. Farmer Jr., *To Practice Law, Apprentice First*, N.Y. TIMES, Feb. 18, 2013, <http://www.nytimes.com/2013/02/18/opinion/to-practice-law-apprentice-first.html>.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ Vincent Rougeau, *Law Schools Should Consider Med-school Model—A Dean's View*, A.B.A. J. (Mar. 13, 2013), http://www.abajournal.com/legalrebels/article/law_schools_should_consider_med-school_model_-_a_dean_s_view.

¹⁸⁰ Harris & Foran, *supra* note 22, at 3.

¹⁸¹ Rougeau, *supra* note 179.

¹⁸² Dean Rougeau does not argue for an apprenticeship as a barrier to entry to the bar like the articling system.

¹⁸³ *Pathways to the Profession: A Roadmap for the Reform of Lawyer Licensing in Ontario*, LAW SOC'Y OF UPPER CAN. (2012), <http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147489848>.

el and the Canadian model as favorable,¹⁸⁴ others think this is a case of the grass always being greener elsewhere.¹⁸⁵ These antagonists argue that, like the Canadian articling system, Dean Rougeau's model will also be hyper-competitive, will be controlled by market forces, and will be unresponsive to unmet legal needs.¹⁸⁶ Indeed, it might well turn out that the main beneficiary of the apprenticeship model would be corporate law firms, thereby providing more legal employment but not more access to justice for poor or middle-class people. It is also noteworthy that, in the wake of the recession of 2007–2009, the “articling” system is being rethought as more Canadian students are left out in the cold without a certified apprenticeship available.¹⁸⁷

As this Article is focused on bridging the gap between unmet legal needs and the oversupply of lawyers, we offer an alternative and more limited solution. If local legal bars certified neighborhood law offices under the Philadelphia plan's five maxims of practice, these certified offices could serve as a test run for the legal residency model. In this model the law student would spend a substantial portion of their third year as an apprentice at certified offices. They would be allowed to practice any kind of law that the office requested and would do so under the supervision of a senior attorney. The student would receive a modest stipend much like that of a clerk. The law school would be required to give free credit for this experience, which would only be available to a relatively small portion of the students during the experimental term. As Dean Rougeau suggests, it is likely the Bar Association will need to mediate between established interests that may be affected by this proposal.

The hope is that this model will reduce the barriers separating lower- and middle-income persons in need of legal services and under- or unemployed lawyers. This system would benefit law students by reducing their debt, giving them practical experience, and, hopefully, instilling law students with a heart for local lawyering. It would also provide law students with the possibility of future full-time employment at the neighborhood law office after finishing their residency or apprenticeship program. Moreover, it would train students in the model of community

¹⁸⁴ David Lat, *Is the Legal Job Crisis Spreading to Canada?*, ABOVE THE L. (Nov. 3, 2011 2:16 PM), <http://abovethelaw.com/2011/11/is-the-legal-job-crisis-spreading-to-canada/>.

¹⁸⁵ Stuart Kovinsky, *Legal Residency – Probably Not the Wave of the Future*, KAPLAN (Feb. 25, 2013), <http://blog.kaplanlsat.com/2013/02/25/legal-residency-probably-not-the-wave-of-the-future/>.

¹⁸⁶ Geoff Ellwand, *Betrayed, Beguiled, and Abandoned?*, CAN. LAW. (Feb. 4, 2013), <http://www.canadianlawyermag.com/4501/Betrayed-beguiled-and-abandoned.html> (self-represented litigants are growing to as much as 80% of litigants in family court and 60% in civil cases).

¹⁸⁷ *Pathways to the Profession: A Roadmap for the Reform of Lawyer Licensing in Ontario*, *supra* note 183.

lawyering, a model substantially different from the corporate model that many students are exposed to at large law firms.

This model would also provide experienced attorneys who have a desire to start a neighborhood legal office with a carrot to do so. The model will attract low-cost workers, which will allow the business model to be more sustainable from the start. Additionally, because the test model would originally only be instituted for the few certified offices in any given city and because the model provides pay for work alongside free credit, it is likely that only the best students would be competitive for service in the neighborhood offices. This may be a first step in addressing the bar stratification problem as at least some talented students would find a new equilibrium in local offices. Whether they later go to larger firms may depend upon their experience with those offices.¹⁸⁸ Finally, as with the neighborhood offices, it is likely that one or two cities and schools will need to take the lead by entering an “experimental stage” from which other cities and schools could learn.

D. Thinking Outside the Box: The Gift Economy

A third alternative to solving the supplemental funding gap in neighborhood offices is the gift economy. The gift economy has been described as “a moral economy in that gift transactions constitute a fundamental medium for the social construction of intimacy and community in modern society.”¹⁸⁹ In other words, the gift economy is an economy more akin to a barter system, but the obligation to repay is owed to the community at large not the giver. This idea of a gift economy has recently been probed by some in the open-source software-development world who have sought to “supervene” the gift economy on top of the transactional economy.¹⁹⁰ This model has varying forms, but two internet sites in particular could be useful in establishing neighborhood law offices.

First, the problem of startup funding is a problem Kickstarter was made to fix.¹⁹¹ Kickstarter is a website that was started in 2009 as a way

¹⁸⁸ It may be necessary to add an additional requirement that any student accepting a third year at the neighborhood legal office must not have a standing commitment to work at a firm upon graduation at the time of acceptance. Due to the current hiring climate this may mean the top 5% of students may become ineligible for a neighborhood legal office position if they do not make this type of work a priority. However, it is likely that there are more than enough quality candidates available in the top 5–20% of any class.

¹⁸⁹ Michael G. Flaherty, *The Gift Economy*, 68 SOC. FORCES 650, 650 (1989).

¹⁹⁰ Andrew Leonard, *Crowdfund Your Salary! An Economy Built on Love*, SALON (Oct. 25, 2013, 7:45 AM) http://www.salon.com/2013/10/25/crowdfund_your_salary_an_economy_built_on_love/ (quoting Chad Whitacre, the creator of Gittip).

¹⁹¹ Carlyle Adler, *How Kickstarter Became a Lab for Daring Prototypes and Ingenious Products*, WIRED MAG. (March 18, 2011 4:46 PM),

to “crowdsource” the funding of arts projects.¹⁹² Five years later, over \$1 billion has been pledged to projects on Kickstarter.¹⁹³ These projects run the gambit from art, dance, and food to technology and business.¹⁹⁴ The site works by allowing anyone, such as a neighborhood legal office, to start a project. The user then explains this project on the site, receives feedback, and sets a funding goal, usually with the offer of a product or award for donations.¹⁹⁵ If the funding goal is not met by the date proposed, then no money changes hands. If the goal is met, the project is funded and the creator can get his project underway. The uses for this site are seemingly endless. However, in the context of the neighborhood legal office plan, a project could be created by seeking startup funding for a neighborhood legal office, and any donor who gives \$50 or more could be awarded half-hour increments of legal advice as a prize. While all the legalities of this site have not yet been ironed out, it has proven its worth in getting socially desirable projects up and running.¹⁹⁶

Once an office is open, the neighborhood attorney could look to a second site, like Gratipay (formerly known as “Gittip”), to supplement their income.¹⁹⁷ Gratipay allows “patrons” to donate a set amount of funds every week to a specific person or team whose work they see as beneficial to either themselves or the community as a whole.¹⁹⁸ At Gratipay this has resulted in some open-source programmers bringing in an additional \$400 to \$600 per week in supplemental income.¹⁹⁹ This, in part, is because employers benefitting from open-source software have made a point of supporting the work. For example, Khan Academy currently donates \$89 a week to be split by seventeen open-source developers on Gratipay and is actively seeking to donate more.²⁰⁰

There clearly is potential in using sites like these to garner community support for a law office that is truly valued. In fact, a site like Gratipay could eventually help determine exactly how much a community values the presence of any particular attorney.²⁰¹

http://www.wired.com/2011/03/ff_kickstarter/all/; KICKSTARTER, www.kickstarter.com (last visited Sept. 15, 2014).

¹⁹² *Id.*

¹⁹³ *Kickstarter Basics*, KICKSTARTER, <https://www.kickstarter.com/help/faq/kickstarter+basics?ref=footer> (last visited Sept. 25, 2014).

¹⁹⁴ *Id.*

¹⁹⁵ Adler, *supra* note 191.

¹⁹⁶ *Id.*

¹⁹⁷ GRATIPAY, <https://gratipay.com/Gittip/> (last visited Sept. 25, 2014).

¹⁹⁸ Leonard, *supra* note 190.

¹⁹⁹ *Id.*

²⁰⁰ John Resig, *Gittip at Kahn Academy*, EJOHN BLOG (Jul. 16, 2013), <http://ejohn.org/blog/gittip-at-khan-academy/>.

²⁰¹ Leonard, *supra* note 190 (as Whitacre says, the site may eventually be able to determine the premium firms have to pay for your independence).

While this third alternative is mostly meant to be thought provoking, it could prove to be very useful to open neighborhood law offices. A neighborhood office could be started based on an assessment that there are many unmet legal needs in the community. Prior to its establishment, the lawyers involved could initiate a series of community meetings and discussions about the maxims and values the office will be based on and see if there is any community support. An office that needs supplemental income could then initiate a Kickstarter campaign, followed by seeking patrons on Gittip. These patrons, ideally, would come from the community served but could theoretically come from outside the community. Fellow members of the bar could support the work as could local charitable organizations or possibly the local law school.²⁰² In fact, the greatest benefit of these sites is that anyone who supports bringing affordable legal services to the middle class is a potential patron.²⁰³

CONCLUSION

Unmet legal needs and the paradoxical oversupply of lawyers are substantial and problematic issues facing the legal profession today, as they were during the time of the Philadelphia neighborhood law offices experiment. That experiment offers some hope for alleviating the contradiction. However, the problem of funding such a program, exacerbated by student debt, will need to be solved to overcome the barriers facing lawyers who want to join or start neighborhood legal offices to address the unmet legal needs in the community, and in the process, provide themselves with meaningful, satisfying employment.

The neighborhood law office model for serving low- and middle-income people could not only help alleviate the problems of underserved communities and unemployed lawyers, but also play a role in changing the ethos of the contemporary lawyer from a businessperson to a community servant. If the funding problem could be overcome, this model could help the legal profession rediscover the community-lawyering model. This would enable more lawyers to practice law with a public service value system independent of the corporate world. An important function of the neighborhood law office model may not simply be to satisfy the legal and employment needs of clients and lawyers, but rather to reconceptualize the practice of law in a manner that ultimately provides

²⁰² Law schools could be more robustly involved here by providing both incubator funds and mentorship for local offices opened by students.

²⁰³ Notably the gift economy is not just for internet altruism. Corporations like Panera have also begun to experiment with these concepts by allowing patrons to pay what they want for the food they take, or, if they want, to work for the food as well. Anytime you are considering donations, as with Panera Cares, a more traditional nonprofit structure may be worth considering as well. Venessa Wong, *Panera Doesn't Offer a Free Lunch – It Offers Caring*, BLOOMBERG BUSINESSWEEK (Jan. 28, 2013), <http://www.businessweek.com/articles/2013-01-28/panera-doesnt-offer-a-free-lunch-it-offers-caring>.

a more satisfying experience to both groups. The task requires creativity, but as the Philadelphia neighborhood law offices plan of the 1930s proves, it is a task that can be accomplished.