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The New York Times Asks “Is Law School a Losing Proposition?”

Are Those Losses Legally Compensable?

Dust off your old blue books and take this law school exam.

The provocative lengthy feature piece that appeared on the front page of the business section of The New York Times on Sunday January 9, 2010 entitled [Is Law School a Losing Proposition?](#) added substantial fuel to an already raging public debate regarding, among other things, the adequacy of disclosures made by law schools to prospective applicants, the question of whether law schools are blatantly engaged in deception, what should law school graduates’ reasonable employment expectations be, should the nation completely overhaul its system of legal education and ultimately, perhaps, most significantly, is there legal liability that should attach to those who have caused palpable significant monetary and other damages to tens of thousands law school graduates? Clearly, none of the stakeholders is prepared to accept responsibility. Each of the players is eager to blame others. We have all heard the various claims: the accurate information is available to prospective law students; all they need to do is conduct their own due diligence. Law school graduates, as the *Times* reported believe that law schools bear a great deal of serious culpability.

You have all by now no doubt all read (1) [The New York Times piece](#); (2) Professor's [Brian Tamahana's ruminations](#) in which he takes the law school academic community to task for its failures to disclose material facts to prospective law students while law schools feather their own beds; (3); [The Law School Transparency Project](#) , a non profit group which has been urging law schools to make full and accurate disclosure, which has been largely ignored by the nation's law schools ; (4) [www.shillingmesoftly.com](#), a forum for law school graduates who feel victimized by failures of law schools to make full disclosure; (5) [www.lawschooltuitionbubble.com](#) , in which the issue of huge law school debt hangs over the heads of so many graduates and which will likely never be repaid; (6) the US news and World Report article by Prof. Bill Henderson in which he describes the current \$50,000 annual tuition required b law schools as being untenable; (7) [my own observations](#); and (8) Professor's Steve Harper's [recent observations](#) in which he describes US News and World Reports an "aider and abettor" to the blatant deception of too many law schools.

More interesting and indeed perhaps even scandalously shocking is a document published in late 2009 that first surfaced and was only widely reported in January 2011 from some deep catacomb of the ABA entitled "The Value Proposition of Attending Law School." (<http://www.abanet.org/lstd/legaled/value.pdf>)This paper was authored by the ABA Commission on the Impact of the Economic Crises on the Profession and Legal Needs. The paper notes in part:

"Although many factors may influence one's decisions about whether and where to attend law school, a proper understanding of the economic cost of a legal education is vital for making an educated decision. Far too many law students expect that earning a law degree will solve their financial problems for life. In reality, however, attending law school can become a financial burden for law students who fail to consider carefully the financial implications of their decision.

Many prospective law students are already familiar with the steep price of a legal education. What many do not know, however, is that these costs often exceed the expected return on their investment in the job market. Prior to the recession, starting salaries for associates at large law firms stabilized around \$160,000 a year, and many prospective law students expect to be able to earn a comparable amount. In reality, however, only 23% of the graduates of the class of 2008 started with such a high salary, including only 37% of those who went into private practice. Shockingly, most of the rest of the graduates, about 42%, started with an annual salary of less than \$65,000.....

The combination of the rising cost of a legal education and the realities of the legal job market mean that going to law school may not pay off for a large number of law students. Dean David Van Zandt of Northwestern Law School estimates that to make a positive return on the investment of going to law school, given the current costs, the average law student must earn an average annual salary of at least \$65,315. As the data above show, however, over 40% of law school graduates have starting salaries below this threshold. Thus, many students start out in a position from which it may be difficult to recoup their investment in legal education. Even students who do ultimately prosper over the course of a career face difficulties from high debt loads during the beginning of their career.

High debt can limit career choices, prevent employment in the public service sector, or delay home ownership or marriage. In short, going to law school can bring more financial difficulty than many law students expect.” [Footnotes omitted]

I personally frankly cannot fathom why this four page report has been buried in ABA catacombs for months and why it was not delivered to every prospective law school applicant after its rather clandestine publication by the ABA, nor why the 979 word report was never prominently posted on the NALP web site nor why this critical warning is not contained in every law school catalogue. It could be easily argued, I would suggest, that the report is a veritable “smoking gun” evidencing the fact that critical material information was being withheld from law school applicants.

All too often lawyers enter the profession with the aspiration to correct injustices. Perhaps this is the euphemistic way to say that where some have suffered damages at the hands of others, lawyers eagerly enter the fray and prosecute malefactors, while earning handsome fees.

Accordingly, the question is what rights and remedies, if any, exist for those who have suffered real damages in these circumstances and what defenses exist for the potential defendants?

Post your replies in the comments section you can [find here](#).

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