

## DOES EXPERIENTIAL LEARNING IMPROVE JD EMPLOYMENT OUTCOMES?

JASON WEBB YACKEE\*

|                                                       |     |
|-------------------------------------------------------|-----|
| Introduction .....                                    | 601 |
| I. Data & Research Design .....                       | 604 |
| II. An Overview of the Data.....                      | 610 |
| III. Clinical Education and Employment Outcomes ..... | 611 |
| Concluding Thoughts .....                             | 620 |
| Appendix: 2014 Results .....                          | 623 |

### INTRODUCTION

This short article provides an empirical examination of the link between law school experiential learning opportunities and JD employment outcomes. The paper is motivated by the so-called “law school crisis” that has accompanied the bursting of the housing bubble and the ensuing Great Recession.<sup>1</sup> As most readers know, the market for new lawyers collapsed during the recession. Applications to law schools initially rose, but have since fallen dramatically. Entry-level legal hiring remains sluggish, and law school applications remain at or near historic lows.

The situation poses a number of serious challenges to the legal academy, and how law schools should respond is hotly debated. One common suggestion is that law schools should reform their curriculum

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\* Associate Professor, University of Wisconsin Law School. I may be contacted at [jason.yackee@alumni.duke.edu](mailto:jason.yackee@alumni.duke.edu). I would like to thank Amanda Postel (JD Candidate, 2017) for research assistance and Shubha Ghosh, Andy Coan, Anuj Desai, Luke Keele, John Ohnesorge, Kyle McEntee, and a commenter who wished to remain anonymous (because of the controversial nature of this subject within the legal academy) for helpful suggestions. I am also grateful for the willingness of the other participants in the *Wisconsin Law Review* exchange (both in print and online) to engage so thoughtfully with the article.

1. See, e.g., Paul Campos, *The Crisis of the American Law School*, 46 U. MICH. J.L. REFORM 177 (2012). Campos, through his now-defunct blog “Inside the Law School Scam,” has probably done more than anyone except for Brian Tamanaha to promote the notion that law schools are in “crisis.” For Tamanaha’s take, see his *FAILING LAW SCHOOLS* (2012). Campos’s blogging and other crisis-related writing have been hugely controversial among legal academics, and by citing him here I don’t mean to take a position either way on the normative worth of his activities. For a critical overview of the “crisis” literature and its skills-oriented reform proposals, see Richard E. Redding, *The Legal Academy Under Erasure*, 64 CATH. U. L. REV. 359 (2015).

to emphasize the development of practical “skills” through “experiential learning” rather than what is described as the impractical, theory- and doctrine-heavy book learning of the traditional law school curriculum.<sup>2</sup> (In this paper I use “skills” and “experiential” synonymously.) The basic idea is that by increasing opportunities for skills learning, law schools will produce graduates who are closer to being “practice ready” (another concept to emerge in the crisis-related debates),<sup>3</sup> and that law firms will be more likely to hire those graduates than they have been to hire graduates who pursued a traditional curriculum. Why would law firms be more willing to hire graduates with skills training? Because clients—who are said to increasingly refuse to pay for legal work performed by young associates—will recognize that young associates with robust skills training are able to provide sufficient value, even at the start of their careers, and will be willing to pay their hourly fees.<sup>4</sup> As an example of this logic, take the following statement by Villanova’s law school:

Today’s lawyers often practice more than just law. They are business consultants. Problem solvers. Financial strategists. That’s why Villanova University School of Law is pushing the

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2. For a version of this argument, see Brent E. Newton, *Preaching What They Don’t Practice: Why Law Faculties’ Preoccupation with Impractical Scholarship and Devaluation of Practical Competencies Obstruct Reform in the Legal Academy*, 62 S.C. L. REV. 105, 140 (2010) (“There is no better way to prepare students to be lawyers than for them to participate in clinical education. Clinical education involves more than mere skills training; it give[s] students systematic training in effective techniques for learning law from the experience of practicing law, which is vastly superior to learning from reading appellate cases and then listening to a professor lecture or employ the case-dialogue method in a large classroom. A 2009 survey of recent law school graduates confirms that those law school experiences that involve the use of and training in skills that practicing lawyers use in their work are the experiences that new lawyers rate as most helpful for making the transition to practice.”) (citations omitted) (internal quotation marks omitted).

3. See, e.g., Margaret Martin Barry, *Practice Ready: Are We There Yet?*, 32 B.C. J.L. & SOC. JUST. 247, 254–56 (2012) (describing the “practice ready” movement as a reaction to the economic downturn). For a spirited critique of the concept of “practice ready,” see Robert J. Condlin, *Practice Ready Graduates: A Millennialist Fantasy*, 31 Touro L. REV. 75 (2014).

4. For a version of this argument, written by a partner at a large U.S. law firm, see Steven C. Bennett, *When Will Law School Change*, 89 NEB. L. REV. 87, 108–15 (2010). Interestingly, Bennett suggests that law firms currently do *not* take skills training into account when hiring, but that they may in the future. *Id.*; see also Drew Coursin, Comment, *Acting Like Lawyers*, 2010 WIS. L. REV. 1461, 1461 (“Leaner economic times have made legal employers hungry for better-prepared candidates.”); Barry, *supra* note 3, at 255 (same); Todd A. Berger, *Three Generations and Two Tiers: How Participation in Law School Clinics and the Demand for “Practice-Ready” Graduates Will Impact the Faculty Status of Clinical Law Professors*, 43 WASH. U. J.L. & POL’Y 129, 151–52 (2013) (same).

boundaries of traditional legal instruction and infusing vital business coursework and experiential learning opportunities into every student's education. Whether students pursue corporate, criminal or public interest practice, Villanova prepares graduates to become the kind of lawyer the market demands.

"Firms and institutions want attorneys who can hit the ground running," says John Y. Gotanda, the Arthur J. Kania Dean of Villanova University School of Law. "Our efforts are designed to provide students with the skills they need to practice on day one and throughout their careers."<sup>5</sup>

We can imagine a contrasting but nonetheless plausible story that would go something like this: law firms and their clients don't actually take skills training into account when deciding whether to hire (or to pay for work by) young associates.<sup>6</sup>

Firms tend to rely overwhelmingly on simplifying heuristics when deciding where to interview (primarily, a law school's national reputation; perhaps also geographic proximity to the firm) and who to hire (primarily law school GPA; perhaps also moot court or law review selection; probably the candidate's poise in the interview). Those heuristics may even be "rational" in a sense. A focus on law school reputation may provide law firms (which may be risk averse in hiring) with a low cost and fairly reliable signal of a job candidate's capacity to do legal work and of his or her desire to do it. In contrast, it would be costly and difficult for firms to identify and compare skills training opportunities across schools, or even across law students, just as it would be difficult to convince clients that the law firm's young associates are worth paying for because of their unusually strong skills training. Hiring an entry-level candidate from a low-ranked school on the basis of the school's skills training program may simply be too risky, especially if the current selection process performs pretty well. This story would also tend to portray employer demand for new lawyers as largely exogenous to law school curricular choices, at least

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5. The statement appeared as "sponsored content" on the website *Above The Law* when I searched the site for the term "experiential learning." Villanova Univ. Sch. of Law, *Villanova University School of Law: Where Law Meets Business*, ABOVE L. (last viewed Jan. 27, 2015) (on file with author). Ironically, Villanova is paying to advertise its skills-learning program on a website that routinely disparages skills-based reforms in the harshest of terms. See, e.g., Elie Mystal, *The Myth of the 'Practice Ready' Law Graduate*, ABOVE L. (Sept. 3, 2013, 5:47 PM), <http://abovethelaw.com/2013/09/the-myth-of-the-practice-ready-law-graduate/>.

6. For an informal version of this position, see *id.* Condlin, *supra* note 3, at 78–80, makes the argument as well.

once the curriculum reaches a particular level of quality. Most if not all ABA-approved schools probably have a basically adequate curriculum, and tweaks to it won't make law firms more likely to hire than they otherwise would be.

It should be clear that each of these views relies on certain contradictory empirical assumptions about how employers and their clients are likely to respond to law school investment in experiential learning opportunities. To date, those assumptions have not been tested as rigorously as one might expect. This paper aims to fill this empirical gap. To summarize the paper's key finding: there is not much evidence that law schools that provide greater opportunities for skills training have substantively better employment outcomes than do those law schools that provide fewer opportunities. In contrast, employment outcomes do seem to be strongly related to law school prestige.

Before presenting the study's research design and findings, the reader should understand that I neither aim to show, nor does the paper claim, that experiential learning is wasteful, misguided, or otherwise undesirable. As I discuss in the paper's concluding section, it is easy to formulate a number of plausible hypotheses supporting a robust role for experiential learning in the modern law school curriculum. On the other hand, if a law school's primary justification for investing in experiential learning (at the expense of other law school priorities) is that the investment will likely improve its students' employment outcomes, my study suggests that the investment may, in fact, not be likely to pay off. Indeed, we might speculate that over-investment in experiential learning could actually harm student employment outcomes to the extent that it takes away from investment in those factors that more directly drive a law school's national reputation.

Let me also emphasize that the present study is presented as suggestive. Scholars should continue to examine the underlying question, using different data, different methods, and different models. My main aim is to use the study to encourage more empirical research into the consequences, desirable or otherwise, of an expanding commitment to experiential training.

## I. DATA & RESEARCH DESIGN

Other studies have focused on whether students who take a skills-based curriculum leave law school with a greater degree of professional competence than those who do not. A recent example was reported on the *Wall Street Journal's* Law Blog.<sup>7</sup> Academics from the University of

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7. Jacob Gershman, *Study: Law School's Practice Ready Program Produced Better Grads*, WALL ST. J. L. BLOG (Jan. 5, 2015, 10:47 AM), <http://blogs.wsj.com/>

Denver administered a client-interview-assessment questionnaire to a small number of newly licensed New Hampshire lawyers. Some of the lawyers had participated in a special skills-based “honors” program offered by the University of New Hampshire. Other lawyers had not. The study found that clients gave the “honors” graduates better scores on the surveys. As the *Journal* concludes, “The legal education industry has adjusted as more legal clients have refused to pay for young lawyers to learn on the job. While most of these efforts are too new to assess, [this] new study focusing on one school’s practice-ready program suggests that such training may be working.”<sup>8</sup> While such studies are a valuable addition to the debate, it should be recognized that they will often suffer from serious problems of selection—that is, the probability that students who apply for and are accepted to an “honors program” or to a clinic may be systematically more likely to have better (or worse) inherent competence than is a young lawyer who has not applied and been accepted.<sup>9</sup> Moreover, such studies typically will have trouble adequately addressing the possibility that extra skills training merely redistributes jobs from some students to others, rather than increasing the overall supply of jobs.<sup>10</sup>

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law/2015/01/05/study-law-schools-practice-ready-program-produced-better-grads/. The study can be downloaded at ALLI GERKMAN & ELENA HARMAN, INST. FOR AM. LEGAL SYS., AHEAD OF THE CURVE: TURNING LAW STUDENTS INTO LAWYERS (2015), <http://educatingtomorrowlawyers.du.edu/projects/ahead-of-the-curve/>.

8. Gershman, *supra* note 7.

9. The selection (or endogeneity) problem can only fully be overcome by randomly assigning students to clinics. In reality, students typically go through a two-stage selection process. First, they self-select into groups that apply or don’t apply to be in a particular clinic. Second, the clinic director chooses who among the applicants to admit. The Denver study acknowledges that its findings may be driven by selection effects:

Focus group participants disagreed about the degree to which [the New Hampshire Honors] program would succeed if the selection criteria were broader. [Honors] scholars are not selected randomly. As one administrator described, “the students need to be motivated, responsible and willing to work hard and cooperatively together.” Students, faculty, and judges felt that the program can and should be expanded to lower performing students without diluting the program’s success, but other groups disagreed. The bar examiners (and some administrators) were concerned that much of the [Honors] program’s success was attributable to taking “smart people who may not have the skills needed to succeed and mak[ing] them ready.” They felt that [Honors] graduates “are much better prepared because of the program, but they are people who probably would have been successful anyway.”

GERKMAN & HARMAN, *supra* note 7, at 16.

10. Such “redistribution” is possible if skills training simply replaces something like GPA as an employer’s preferred heuristic for making a predetermined number of hiring decisions. To say that skills training matters systemically we would

For our purposes, though, the basic point is that studies like the Denver one focus on only part of the theoretical causal chain, which we can visualize as thus:

**Figure 1:**

More skills training → More-competent graduates → Greater willingness of firms to hire those graduates → Happier clients

The Denver study looks for a correlation between skills training and client satisfaction, as indicated by the underlined text in Figure 1. It assumes that the correlation it identifies is evidence that skills training leads to greater competence (or, it assumes that client happiness is evidence of or caused by or, perhaps, is conceptually equivalent to, greater competence), and it assumes that firms will be more willing to hire these graduates out of recognition that those graduates will be more likely to make clients happy.

The present study adopts a different empirical strategy. Rather than focusing on the student level of analysis, or of the correlation between client satisfaction and skills training, I focus on the law school as the unit of analysis and the link between student opportunities for clinical training and overall law school employment outcomes.

**Figure 2:**

More skills training → More-competent graduates → Greater willingness of firms to hire those graduates → Happier clients

My dependent variable is “JD employment outcomes,” which I operationalize as a law school’s Law School Transparency (LST) “Employment Score” for the class of 2013 (the latest data available at the time that I initially drafted this article). I present equivalent results for the 2014 class in the appendix. I do not explore correlations for years prior to 2013 and 2014 due to concerns about the quality of the earlier employment data.<sup>11</sup> Note that my study design, in which law

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need to show not just that it encourages a law firm to hire Student A rather than Student B, where the law firm had already decided to hire one student, but that because of skills training law firms hire more new lawyers than they otherwise would have hired.

11. As Ben Trachtenberg puts it, “For years, law schools have reported statistics using an overbroad definition of ‘employed’ (causing prospective students to overestimate the percentage of law graduates with the sort of jobs prospective students hope to attain).” Ben Trachtenberg, *Law School Marketing and Legal Ethics*, 91 NEB. L. REV. 866, 882 (2013); see also Andrew S. Murphy, *Redeeming A Lost Generation: “The Year of Law School Litigation” and the Future of the Law School Transparency Movement*, 88 IND. L.J. 773, 778 (2013) (claiming that law schools would report graduate part-time jobs at Starbucks as legal employment). I assume that law schools

schools are the unit of analysis, does *not* allow me to say anything about whether a greater commitment to skills training improves the entry-level legal market on a systemic (nation-wide) level or whether it improves the prospects of individual law students. I am only able to examine whether a greater commitment to skills training *at the school level* is associated with greater school-level employment outcomes.

The LST variable measures the percentage of recent graduates obtaining full-time employment, within nine months of graduation, for which a JD degree and bar passage are required.<sup>12</sup> The measure does not include short-term or part-time jobs, or jobs for which bar passage is not required. It also excludes solo-practitioner jobs. LST's rationale for excluding certain kinds of jobs from its employment score reflects what it calls "the conventional assumption that the bulk of people attend law school aiming to pursue a career practicing law."<sup>13</sup> We can imagine a non-trivial argument that at least some law schools specialize in placing a high proportion of their JD candidates in legitimate non-legal jobs (for instance, American University's low LST score may arguably reflect a considered emphasis on placing students in non-law government jobs). However, I agree with LST that for most law schools a focus on the success in placing students in full-time, long-term, bar-required jobs is not just defensible but probably preferred. Excluding non-legal jobs (including so-called "JD preferred" jobs) seems especially justifiable when talking about the potential effects of skills training on hiring. Experiential learning in law school is, I assume, overwhelmingly focused on providing traditional legal skills that will be appreciated (and used) by licensed lawyers. (LST includes law-school-funded jobs in its employment score; I test the robustness of my results using a measure that subtracts those jobs from the dependent variable.)

My main explanatory variable is the "number of positions available in faculty supervised law clinic courses" for each law school, expressed as a percent of total JD enrollment. The data on clinical positions comes from the ABA's *Standard 509 Information Reports* and is self-reported by law schools.<sup>14</sup> I use the data from the 2013 Standard 509 reports, which reflect data for the academic year 2012–13 (corresponding to those graduates whose employment results are captured by the LST data). I focus on the clinical-position data, rather

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cleaned up their act by 2013, due to the increased scrutiny of the ABA and other third parties, such as LST.

12. See *Methodology*, L. SCH. TRANSPARENCY, <http://www.lstscoreports.com/guides/Methodology/> (last updated Apr. 3, 2014).

13. *Id.*

14. See *Section of Legal Education - ABA Required Disclosures*, AM. B. ASSOC., <http://www.abarequireddisclosures.org/> (last visited Sept. 2, 2015).

than on self-reported “simulation” opportunities. Clinics are reasonably presumed to provide the most substantively meaningful skills training opportunities during a law student’s career.<sup>15</sup> This is because clinic participants typically work with live clients, under the immediate supervision of a licensed, practicing attorney, intensively for an extended period of time.<sup>16</sup> If clients and law firms value experiential learning, they are likely to strongly prefer clinical training over, say, in-class moot court exercises added to a traditional lecture course. Moreover, it is probably more difficult for schools to exaggerate the extent of their “clinical” as opposed to their “simulation” learning opportunities, as “clinical” has something closer to a consensus meaning, and a school’s clinical positions can be relatively easily verified by examining course catalogs. In contrast, there are no set criteria for labeling a course a “simulation” or otherwise non-clinically skills-based and no easy way to verify a law school’s claim that a particular course *is* meaningfully experiential.

I include two other independent variables, which can be viewed as controls.

First, I include each school’s 2013 *U.S. News and World Report* (USNWR) ranking, to control for the likelihood that higher-ranked schools will tend to be more successful at placing their graduates in full-time, long-term jobs requiring bar passage. By “2013 USNWR ranking” I mean the ranking that USNWR published in the spring of 2013. It is important to note that USNWR actually titles its 2013-released rankings the “2014” rankings. When I say that a model uses the 2013 rankings, that is equivalent to saying that I am using the rankings published in 2013 but called “2014” by USNWR. I also present an alternative analysis that substitutes the 2013 USNWR “peer review” (academic reputation) scores for the USNWR ranking. I provide the alternative analysis because the USNWR rankings are based upon an overall aggregate score that includes, among several other factors, the school’s recent employment outcomes. By including the USNWR ranking as an independent variable in a model explaining employment outcomes, we are thus indirectly placing the same variable on both sides of the statistical equation. This may be less of a problem

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15. Thus Chemerinsky, a prominent proponent of incorporating greater opportunities for experiential learning in the law school curriculum, asserts that “[t]he most important change that is needed in law school is to ensure that every student has a clinical experience or the equivalent.” Erwin Chemerinsky, *Rethinking Legal Education*, 43 HARV. C.R.-C.L. L. REV. 595, 595 (2008).

16. For example, at my institution, students in clinical programs typically work for the clinic for an entire year, most receiving over twelve credits for their efforts. See *Clinical Programs Overview*, U. WIS. L. SCH., <http://law.wisc.edu/clinics/tableview.php> (last visited Sept. 2, 2015).

in my analysis, as the 2013 USNWR rankings actually rely on employment outcomes for the Class of 2012, while my dependent variable reflects the employment outcomes of the Class of 2013. On the other hand, a law school's employment outcomes in one year may causally impact the next year's outcomes. The alternative analysis is presented as a response to that concern, on the assumption that a law school's employment outcomes are probably not a factor that peer reviewers take into account when rating a school's academic reputation. In any event, the peer rankings variable is highly correlated with the overall USNWR ranking, at about -0.88. (The correlation is negative because the rankings and peer-review scores are scaled in opposite directions.)

Second, I include the 2013 state unemployment rate for the state in which the majority (or plurality) of each law school's students took the bar exam (each school's "main bar state"). The unemployment data is taken from the Bureau of Labor Statistics (BLS).<sup>17</sup> My aim here is to control for background economic conditions that may differentially affect law students from different schools.

My sample is the top 100 (actually, top 101 due to ties) law schools as reflected in the overall 2013 USNWR rankings.

The statistical model is admittedly thin. There may be any number of other variables that plausibly drive law school employment outcomes (e.g., "strength of career services office"), and I can't guarantee that the reported results won't change in the face of differently specified models.<sup>18</sup> On the other hand, the greater the data requirements of the model, the more difficult it is to conduct an empirical analysis across a large number of law schools. The present model is thin, but it covers a large number of law schools, and the observed regression fit may still be suggestive, especially as to the lack of a relationship.

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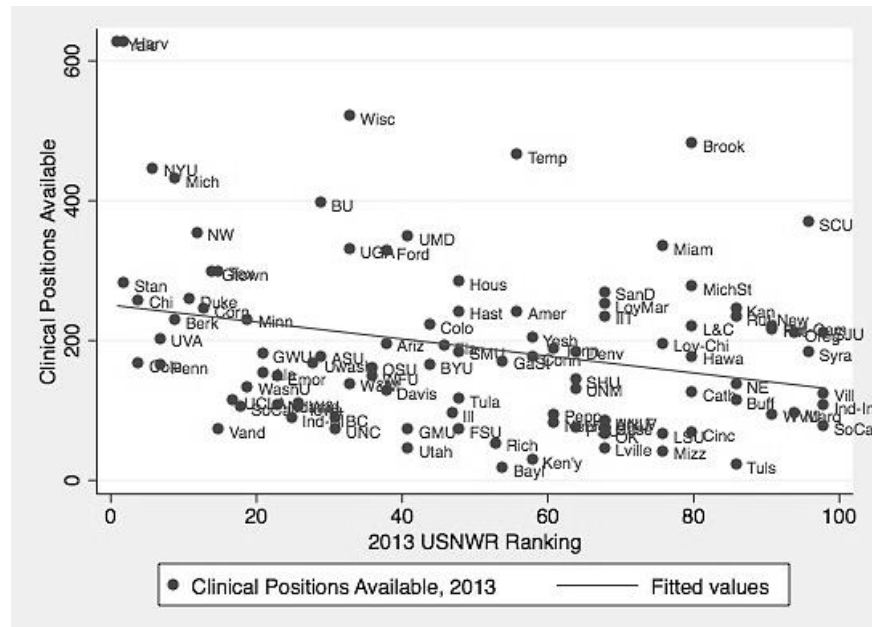
17. *Unemployment Rates for States*, BUREAU OF LAB. STAT., <http://www.bls.gov/lau/lastrk13.htm> (last modified Mar. 4, 2015). BLS data is routinely updated or corrected, and the reader may find that current BLS estimates of state unemployment rates for a given year differ slightly from the data that I used in my analysis. The results reported in this version of the article differ slightly (but insubstantially) from the results reported in an earlier version of the article that I posted on SSRN. The difference is due to changes in the BLS data.

18. The problem is one of omitted variable bias (OVB). However, OVB is only a problem if the omitted variables are correlated with independent variables currently included in the model. Moreover, the effect of OVB on reported coefficients will depend on the direction of the correlation. Thus, we cannot say at the outset that including additional variables would necessarily influence the reported results; nor can we know the direction of the potential influence.

## II. AN OVERVIEW OF THE DATA

In this section I provide a graphical introduction to the data, in the form of scatterplots. Graph 1 shows the law schools in the dataset plotted by USNWR ranking for the top 100 schools and the total number of clinical positions offered. The trend-line shows the overall relationship between rank and number of positions. Perhaps unsurprisingly, two exceptionally wealthy schools (Yale and Harvard, top left) have the most total clinical positions. Perhaps more surprisingly, two relatively poor public schools (Wisconsin and Temple) are also at the top of the graph. The trend-line is downward sloping, indicating that lower-ranked schools actually offer fewer total clinical positions. (The trend moderates somewhat if we exclude Yale and Harvard as outliers)

GRAPH 1: CLINICAL POSITIONS AVAILABLE VERSUS USNWR RANK (2013)



Graph 2 shows the same data, but with clinical positions normalized by total JD enrollment. The normalized data allows us to compare the number of clinical offerings across law schools on a standardized basis, as law school enrollments vary substantially by institution. Yale remains on top, with one clinical position for every single enrolled JD student. A number of public institutions also offer very high numbers of clinical positions: Wisconsin and Temple again,

GRAPH 2: CLINICAL POSITIONS AVAILABLE AS PERCENT OF  
JD ENROLLMENT



In this section I present a statistical analysis examining the correlation between employment outcomes and clinical opportunities. Graph 3 provides an initial examination, a scatterplot of employment outcomes versus clinical positions available as a percent of enrolled JD students. If clinical opportunities positively impacted employment outcomes, we would expect the data points to slope upward and to the right. In fact, the trend-line is slightly upward sloping, but it is not

statistically significant ( $p = 0.69$ ). Moreover, if we remove Yale as an outlier, the trend-line is perfectly flat. In either case, the graph provides no evidence of a meaningful relationship between clinical opportunities and employment outcomes.

GRAPH 3: LAW SCHOOL TRANSPARENCY EMPLOYMENT SCORE VERSUS  
CLINICAL POSITIONS AVAILABLE

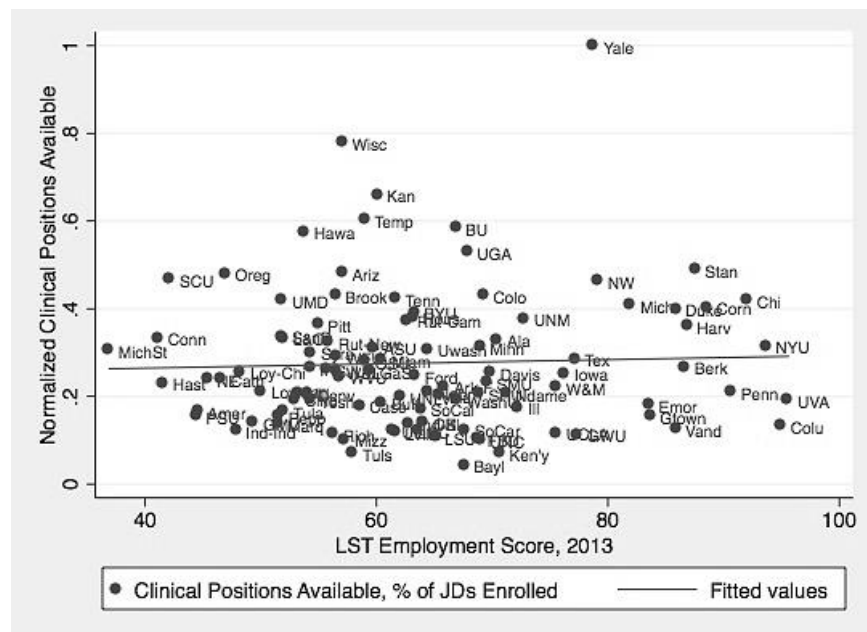


Table 1 shows the results from an ordinary least squares (OLS) regression of LST employment scores for the top 100 law schools. Independent variables are 2013 USNWR ranking; 2013 unemployment rate of each school's main bar state; and 2013 clinical positions available as a percent of total JD enrollment. The table shows coefficients, with standard errors in parentheses and with robust standard errors in brackets. Robust standard errors are calculated so as to control for violations in the underlying data of certain mathematical assumptions of regression analysis.

Model 1 explains 54% of the variance. A school's USNWR ranking is a highly significant and substantively important predictor of its LST employment score. The coefficient of -0.348 indicates that every one-unit drop in rank is associated with a 0.348 decline in LST employment score, with the other two variables held at their means. By "drop" I mean movement toward a numerically greater rank—e.g., 50th is greater than 30th in a numerical sense, but moving from 30th to 50th entails a "drop" or decline in prestige. The results thus suggest

that as schools decline in prestige (as USNWR measures it), the employment prospects of their graduates decline as well. A ten-point drop in USNWR rankings (say, from 10th to 20th) is associated with a three-percentage-point drop in LST employment score (say, from 64%, the study's mean, to 61%). In contrast, neither the clinic-positions-available variable nor the unemployment rate variable is statistically significant. For the clinics variable, the 95% confidence interval for the coefficient is quite large (-5.900 to 6.855), and the estimated impact on employment, while non-significant, is wrongly signed.

TABLE 1: DETERMINANTS OF LST EMPLOYMENT SCORE (2013)

|                                                                                                                                                                                                                                                                     | Model 1                       | Model 2                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|--------------------------------|
| 2013 USNWR Ranking                                                                                                                                                                                                                                                  | -0.348 (0.032)**<br>[0.032]** |                                |
| 2013 USNWR<br>Peer Review Score                                                                                                                                                                                                                                     |                               | 15.636 (1.210)**<br>[1.029]**  |
| 2013 State<br>Unemployment Rate                                                                                                                                                                                                                                     | -0.105 (0.032)<br>[0.695]     | -1.142 (0.698)*<br>[0.644]*    |
| % Clinic Positions<br>Available                                                                                                                                                                                                                                     | -4.523 (5.733)<br>[4.757]     | -14.620 (5.351)**<br>[4.283]** |
| Observations                                                                                                                                                                                                                                                        | N=101                         | N=101                          |
| Adjusted R <sup>2</sup>                                                                                                                                                                                                                                             | 0.54                          | 0.62                           |
| Dependent variable is LST Employment Score; coefficients are reported with standard errors in parentheses and robust standard errors in brackets; models were estimated using OLS. **, *, and ^ indicate significance at the $p \leq 0.01$ , 0.05, and 0.10 levels. |                               |                                |

Model 2 provides results for the alternative model, in which 2013 USNWR peer review scores are substituted for overall USNWR ranking. Whereas the ranking variable runs from 1 to 98 (due to ties), where 1 is better than 2, the peer review score runs, theoretically, from 0.0 to 5.0, with 5.0 being better than 4.9, and so on. In practice, for schools in the top 100 the peer review score ranges from 2.0 (worst) to 4.8 (best). The alternative model continues to explain a large percent of the variance (0.62). The USNWR variable remains highly significant (though the sign switches, due to the different orientation of the peer review score). Law schools with better reputations have significantly better employment outcomes. A one-point increase in the peer review score (e.g., from 2.0 to 3.0, equivalent to a move from the University of Tulsa to the University of Arizona) is associated with a 15.6 percentage point increase in LST Employment Score. The effect seems substantively important. We also see that state unemployment rate is significant, and signed as expected. Law schools whose students tend to

take the bar in states with worse overall unemployment rates tend to have lower LST employment scores, at a roughly 1:1 ratio.

Note also that the clinics-available variable is now highly significant and negatively signed, suggesting that as the normalized number of clinical positions available rises, a school's employment score drops. To calculate the size of the estimated effect of the clinics-available variable in Model 2, understand that it ranges from 0.04 to 1.0 (4% to 100%). A one-unit increase represents a move from offering no clinics to offering an extraordinarily large number of clinics. In that unrealistic extreme case, the model estimates that we would expect the school's LST Employment Score to drop by over fourteen percentage points (e.g., from 70% to 56%). Imagine a more plausible development, that a law school increases its clinical positions available by one standard deviation (e.g., from 28 positions for every 100 students, the mean, to 44 positions for every 100 students). In that case the model estimates that the school's LST score would drop by just over two percentage points (e.g., from 70% to 68%). The amount is not huge, but it is also not negligible.

Table 1's results thus raise the counterintuitive question of whether clinical opportunities may actually harm employment prospects. The current study has no real ability to address issues of causation (as opposed to correlation), and I want to be especially cautious by stressing that I do not claim that the results show that clinical opportunities actually hurt student employment outcomes in a causal sense. Such a counterintuitive claim would need to be buttressed by evidence much stronger than that presented here. It is possible that the result is driven by a sort of selection effect—that law schools that expect to have poor employment outcomes respond by investing in clinics, while those that expect better employment outcomes avoid the expense. From that view, poor employment outcomes might be seen as “causing” clinics.

The Table 1 results (for both Models 1 and 2) are robust to changes in specification. Results are substantively similar when substituting clinical positions *filled* (as opposed to *available*) as a percent of total JD enrollment and when substituting the non-normalized versions (total number) of clinical positions available and filled. They are also robust to the exclusion of Yale, the main outlier, and to an expansion of the sample to include ranked schools above the top 100 (expanding the sample to 143 schools). They are robust to clustering standard errors by main bar state.<sup>19</sup> Variance inflation factors

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19. Clustering controls for the possibility that observations for law schools that share a primary bar state are correlated with each other.

(which test for multicollinearity) are 1.11 or lower, indicating that multicollinearity is not a problem.

Graph 4, below, plots the model residuals versus predicted values for Table 1, Model 1. The graph is useful for illustrating schools whose actual employment performance under- or over-performs model predictions. Schools with a positive residual actually perform better than the model predicts; schools with negative residuals actually perform worse. For example, highly ranked schools (such as those in the top-right corner) tend to over-perform, suggesting an employment premium for being at the very top of the USNWR rankings. Note also the two underperforming schools marked with an “X” (Northeastern and Washington & Lee). Their underperformance should be viewed as somewhat troubling from the perspective of the theory that a greater emphasis on skills training should boost employment prospects. Northeastern heavily markets its “co-op” program as providing its students with a skills-based edge in obtaining legal employment.<sup>20</sup> W&L recently completely revamped its third-year curriculum to emphasize skills-based learning.<sup>21</sup> Both schools nonetheless under-perform in

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20. For example, Northeastern’s website says the following:

When it comes to giving students the opportunity to learn by doing, there’s simply no place like Northeastern. Our signature Cooperative Legal Education Program guarantees you a year of full-time work experience. No other law school program comes close.

While other law schools might give students the chance to work over the summer or experience a part-time internship or externship, only Northeastern integrates four quarters of full-time employment into its curriculum, giving you four opportunities to:

- Collaborate full time with working lawyers, contributing to the resolution of actual cases for real clients
- Make an impact in a professional setting just about anywhere in the world, from New York to South Africa
- Try out a variety of work environments and explore diverse areas of the law in depth

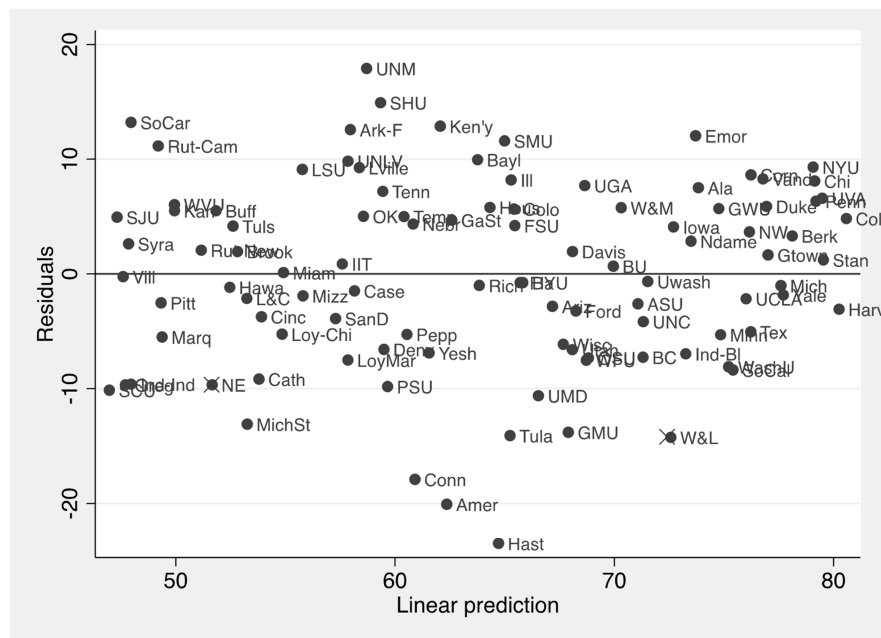
You’ll graduate from Northeastern in three years—the same amount of time as peers at other law schools. But in those three years you will do much more than study the law; you’ll gain the experiences you need to graduate with clear direction, a deep professional network and a resume that stands out from the crowd.

*The Incomparable Co-Op: Four Full-Time Work Experiences. Countless Opportunities.*, NORTHEASTERN U. SCH. L., <http://www.northeastern.edu/law/experience/co-op/index.html> (last visited Sept. 5, 2015).

21. *Your 3L Year*, WASH. & LEE U., <http://law2.wlu.edu/thirdyear/> (last visited Sept. 5, 2015). For a brief discussion of the school’s third-year curriculum, see Toni M. Fine, *Reflections on U.S. Law Curricular Reform*, 10 GERMAN L.J. 717, 739–41 (2009). W&L’s curricular reforms are often mentioned in quite favorable terms by those eager to incorporate greater opportunities for skills training in the law school

terms of employment outcomes, W&L greatly so. Of course, it may be the case that, absent their skills-based programs, these schools would under-perform to an even greater degree. Testing that counterfactual is beyond the abilities of the present data.

GRAPH 4: OVER- AND UNDER-PERFORMERS (MODEL 1)



Graph 5, below, shows predicted values and residuals for the Table 2 model. As with the previous graph, it is useful in identifying those schools whose actual LST employment scores are significantly above or below model estimates. W&L (marked with an “X”) again under-performs expectations, as does Northeastern (marked with an “X”; “NE” is obscured). The point of highlighting these two schools is not to suggest that they are doing anything wrong, but rather simply to illustrate that two schools that have invested heavily in developing reputations for intensive skills training have lower LST employment scores than the model predicts them to have.

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curriculum. See, e.g., Coursin, *supra* note 4, at 1473–74 (describing W&L’s reforms as “bold”). W&L also significantly modified its first-year curriculum at about the same time. Barry, *supra* note 3, at 259–60 (describing W&L’s 1L reforms).

GRAPH 5: OVER- AND UNDER-PERFORMERS (MODEL 2)

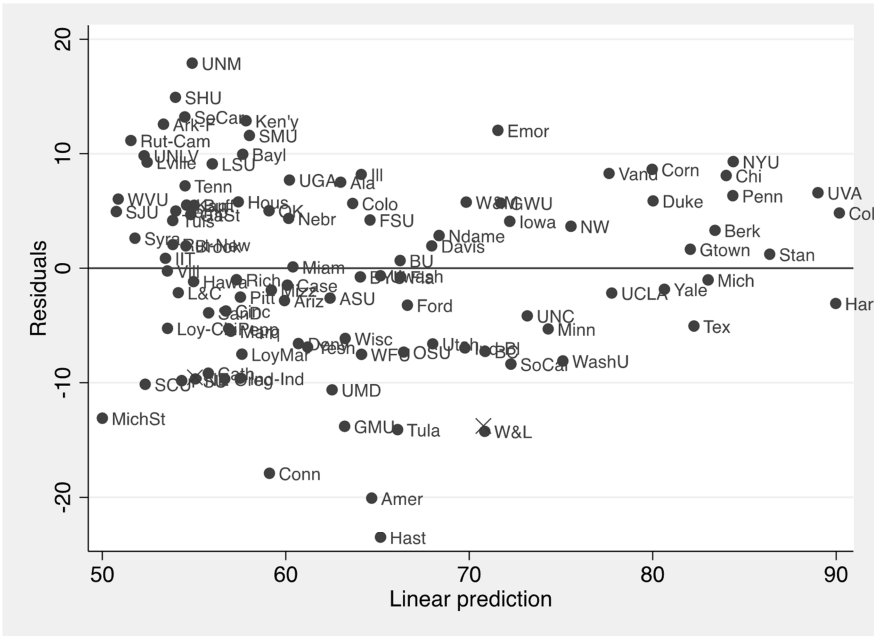


Table 2, below, shows results for two final alternative models in which the dependent variable is adjusted. The LST Employment Score includes law-school-funded jobs, which are full-time, long-term, JD-required jobs that some law schools provide to recent graduates. In the past few years, certain schools (e.g., UVA, George Washington, Emory) have provided a large percentage of their graduating classes with such jobs. In 2013, the three schools named above gave such jobs to 15.9%, 14.6%, and 21.2% of the graduates, respectively.

This practice has been controversial. Critics suggest that it is a cynical attempt to game the USNWR rankings, which take into account employment statistics.<sup>22</sup> Such criticisms seem to reflect a sense that these jobs are not really intended to be “long-term,” and may not really require a JD degree. On the other hand, supporters of the practice might take the view that the law schools are actually behaving admirably by doing what they can to help their graduates in a tough employment market. Law-school-funded jobs give graduates a chance to work in a law-related position and thus to avoid the professional stigma of being unemployed or underemployed. I take no normative position here on the law-school-funded-jobs phenomenon. The important point is that if the practice is viewed as illegitimate (or, more

22. See, e.g., Trachtenberg, *supra* note 11, at 887–90.

precisely, if such jobs shouldn't conceptually qualify as "real" long-term, full-time, JD-required jobs), then an analysis using unadjusted LST Employment Scores may produce inaccurate estimates. To examine this possibility, I subtracted law-school-funded jobs out of the 2013 LST Employment Score and re-ran the Table 1 models.

**TABLE 2: DETERMINANTS OF ADJUSTED LST EMPLOYMENT SCORE**

|                                                                                                                                                                                                                                                                                                       | <b>Model 3</b>                | <b>Model 4</b>                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------|
| 2013 USNWR Rank                                                                                                                                                                                                                                                                                       | -0.279 (0.030)**<br>[0.029]** |                               |
| 2013 USNWR<br>Peer Review Score                                                                                                                                                                                                                                                                       |                               | 12.362 (1.194)**<br>[1.020]** |
| 2013 State<br>Unemployment Rate                                                                                                                                                                                                                                                                       | -0.273 (0.713)<br>[0.631]     | -1.306 (0.689)^<br>[0.625]*   |
| % Clinic Positions<br>Available                                                                                                                                                                                                                                                                       | -0.909 (5.406)<br>[4.507]     | -8.799 (5.280)^<br>[4.278]*   |
| Observations                                                                                                                                                                                                                                                                                          | N=101                         | N=101                         |
| Adjusted R <sup>2</sup>                                                                                                                                                                                                                                                                               | 0.46                          | 0.51                          |
| Dependent variable is 2013 LST Employment Score minus law-school-funded jobs; coefficients are reported with standard errors in parentheses and robust standard errors in brackets. Models were estimated using OLS; **, *, and ^ indicate significance at the $p \leq 0.01$ , 0.05, and 0.10 levels. |                               |                               |

Using the adjusted dependent variable, we see that the coefficients for both versions of the USNWR variable decline somewhat, though they remain highly significant and are in the same directions as originally reported. In other words, in both of the Table 2 models prestige, as measured by USNWR (on either a ranking or peer-review basis), is a highly significant and substantively important predictor of employment outcomes—though it is somewhat less substantively important than indicated in the prior models. The similarity of results is unsurprising, given that the adjusted and unadjusted LST scores are correlated at 0.97, as most law schools report very few or no law-school-funded jobs. The change in estimated magnitude of effect also makes intuitive sense, as the schools most likely to have funded a large number of jobs are close to the top of the USNWR pecking order. Presumably, those schools have both a greater incentive to spend money to maintain their selective reputations and to have the money to spend to maintain it. The effect of subtracting out law-school-funded jobs is thus to decrease the average distance between top-ranked and lower-ranked schools on the job-performance variable, weakening the relationship between prestige and employment outcomes. On the other hand, prestige still seems to be an important driver of employment outcomes. In Model 3, a ten-point drop in rank is associated with a

2.79% drop in adjusted LST employment score. In Model 4, a one-point decline in peer reputation is associated with a 12-point drop.

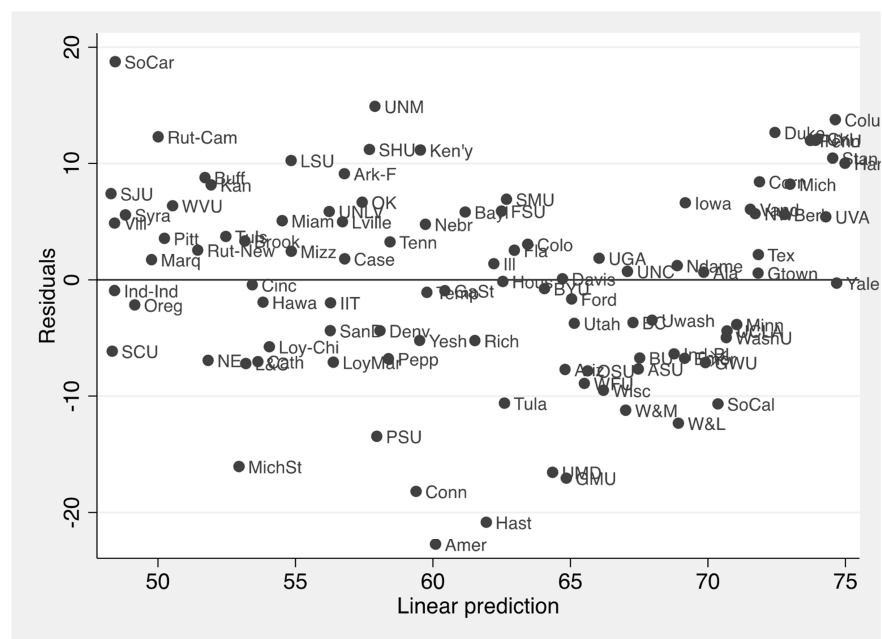
As to the clinics-available variable, it is statistically insignificant in Model 3 but is significant and wrongly signed in Model 4. In that case, we see (as we saw with Model 2) that as the normalized number of clinics increases, employment prospects fall. Recall, though, my cautionary note above; we should not assume that any such negative relationship between clinical positions and employment outcomes is necessarily causal.

As with the Table 1 models, the results illustrated in Table 2 are substantively similar when substituting the normalized number of clinical positions filled (rather than available), the absolute (non-normalized) number of clinical positions available, and the absolute number of clinical positions filled; expanding the sample beyond the top 100 schools; excluding Yale as an outlier;<sup>23</sup> and clustering standard errors by main bar state. Variance inflation factors also remain low (1.11 or lower).

Graph 6 shows under- and over-performers for Model 3. We can see the effect of subtracting out law-school-funded jobs by comparing the top-right quadrant in Graph 6 with the equivalent region of Graph 3. Note that the rankings premium (over-performance) for some top-ranked schools has declined. George Washington, for instance, now under-performs rather than over-performs. This decline is an effect of the fact that George Washington (marked with an X) provided a relatively high number of law-school-funded jobs to their 2013 graduates. Subtracting out those jobs lowers the school's scores on the employment-outcomes dependent variable, which translates into poorer employment performance given the school's relatively high prestige. In the interest of space, I omit an equivalent graph for Model 4, but it shows the same effect from adjusting the employment-score variable: a number of higher-ranked schools decline in degree of over-performance.

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23. However, when excluding Yale the clinics-available variable becomes insignificant in the version of Model 4 with robust standard errors.

GRAPH 6: OVER- AND UNDER-PERFORMERS (MODEL 3)

### CONCLUDING THOUGHTS

Law school administrators are understandably eager to demonstrate to alumni and central campus leaders that they are doing something to improve their graduates' job prospects. In some cases, what is done is largely symbolic (for example, adding "experiential learning" to an associate dean's title). Others are dramatic, costly, and disruptive (for example, W&L's revamped third-year curriculum). Reforms of the first type are not worth much worry. Reforms of the second type may be. That's because there is not much evidence that a greater commitment to skills training will actually improve a law school's employment outcomes. It is even plausible that an excessive focus on skills training at the expense of other law school priorities may harm a school's employment outcomes. That may be the case where, for example, increasingly scarce funds are deployed away from promoting the kinds of things valued by *U.S. News* and other arbiters of prestige (e.g., academic reputation; selectivity of admissions). To acknowledge this possibility is not to approve of it, but rather to recognize the reality in which law schools may operate.

The appropriate role of experiential learning in modern U.S. law schools is a source of great controversy today, involving, as it

increasingly does, a distributional fight between traditional doctrinal faculty and their experiential brethren over increasingly scarce tuition dollars.<sup>24</sup> I'd like to conclude by suggesting that we address the controversy rationally by trying to articulate in a systematic way the likely consequences—the costs and benefits—of spending those scarce dollars on one thing or another. The ABA, through its recently amended accreditation standards, has increased the pressure on law schools to spend more of their dollars on skills training. This may be a good thing, but before deciding that it is, we should identify what we are hoping to accomplish, and what it might prevent us from accomplishing, and we should use modern empirical methods, to the extent possible, to estimate the likelihood and magnitude of the anticipated consequences, both good and bad. This paper is a modest attempt to examine one anticipated consequence—that more skills training is likely to lead to better JD employment outcomes. The results, while certainly not definitive, are also not encouraging.

None of this is to say that skills education is necessarily wasted money. Law schools might rationally and justifiably invest in skills training to achieve other worthwhile goals unrelated to JD employment outcomes. It is easy to imagine a number of plausible and perhaps even empirically testable hypotheses about the positive consequences of skills training.<sup>25</sup> For example, perhaps students who engage in skills training have a more enjoyable time in law school.<sup>26</sup> Perhaps they enter their first job with more confidence and less stress. Perhaps they obtain better jobs than they otherwise would have obtained. Perhaps they have a meaningful impact on the lives of the legally underserved. Perhaps they are less likely to commit professional malpractice in their first jobs. And so on. Clinics and other experiential learning opportunities certainly have a role to play in modern legal education, and perhaps an important one. But in deciding how much to spend on providing such

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24. The fight is not just about dollars, either, but also about prestige within the legal academy. Many clinicians apparently feel as if they are (unjustifiably) “second class citizens” (as a recent law review article puts it) when compared to tenure-track faculty. Berger, *supra* note 4, at 131.

25. For a long list of possible benefits of clinical education, see Lauren Carasik, *Renaissance or Retrenchment: Legal Education at a Crossroads*, 44 IND. L. REV. 735, 790–91 (2011). Carasik takes the position that these benefits are “undisputed.” *Id.* at 790. My preference would be to think about how we might empirically verify her hypotheses. Interestingly, Carasik does not mention employment outcomes as a potential benefit. *Id.*

26. There is some empirical evidence, at least, that law graduates are more likely to rate their clinical classes as “very useful” than they are to so rate their doctrinal classes. Berger, *supra* note 4, at 146 (discussing survey results). Berger also suggests that law students are more likely to find clinical courses to be exciting and emotionally satisfying. *Id.*

opportunities, law schools might want to consider the lack of evidence that such opportunities are likely to improve their graduates' overall prospects of obtaining a quality job as a lawyer.

## APPENDIX: 2014 RESULTS

Between the drafting of the original version of this article and its publication, employment data for the 2014 graduating class became available. In this appendix I re-run the Table 1 models using the updated data. Graph A-1 shows the correlation between LST employment scores and percent clinical positions available; Table A-1 shows the results from the regression analysis; Graph A-2 plots the residuals versus predicted values for Model A-1. The USNWR variables in the appendix models reflect what I call the “2014” rankings. Understand that USNWR *released* these rankings in the spring of 2014, but titles them its “2015” rankings. I also include updated state unemployment and clinics data. In order to compare apples to apples, I run the models using the same collection of law schools reflected in the Table 1 models.

The take-away point is that the results for the 2014 data are highly comparable to those for the 2013 data. Graph A-1 shows a flat relationship between clinical positions and employment outcomes. In Table A-1, we see that the coefficients for the two USNWR variables have coefficients of very similar magnitude to those in the 2013 models. The main difference with the 2014 data is that the clinical-positions-available variable is negatively signed and statistically significant in both of the 2014 models. This suggests that schools that offer more clinical positions (on a normalized basis) have worse employment outcomes. For example, in Model A-2, a one-standard-deviation increase in the clinics variable (0.183) is associated with a 2.9% drop in employment score. The estimated effect is roughly half as big in Model A-1. The results in Table A-1 are substantively similar when we adjust the employment data by subtracting out law-school-funded jobs, though in the interest of space I do not report those alternative results. I should re-emphasize that I am making no claim here that having more clinical opportunities *causes* schools to have worse employment outcomes. The only claim I make is that the 2014 models, like the 2013 models, don’t provide any evidence that having more clinical opportunities *is correlated* with better employment outcomes.

GRAPH A-1: LAW SCHOOL TRANSPARENCY EMPLOYMENT SCORE  
VERSUS CLINICAL POSITIONS AVAILABLE

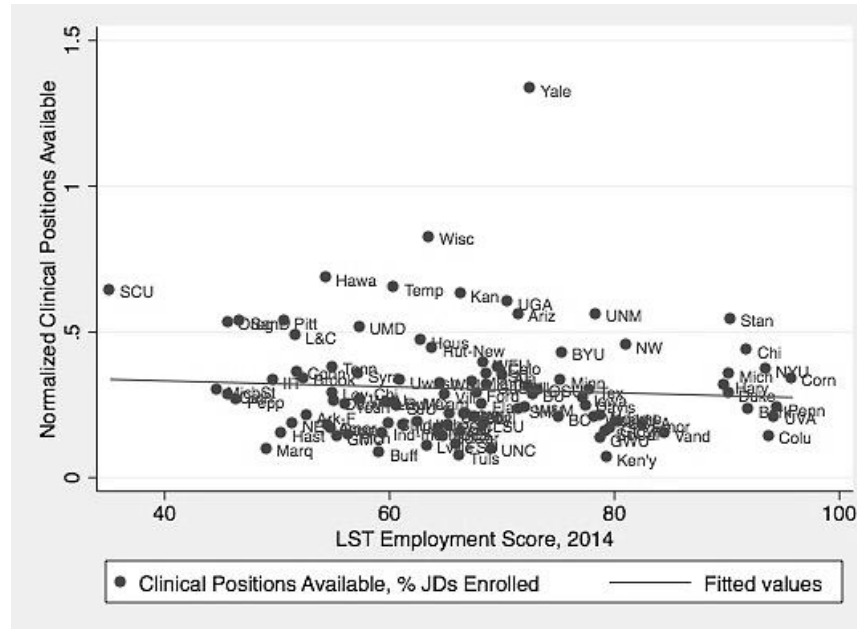


TABLE A-1: DETERMINANTS OF LST EMPLOYMENT SCORE (2014)

|                                                                                                                                                                                                                                                                          | Model A-1                     | Model A-2                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|--------------------------------|
| 2014 USNWR Rank                                                                                                                                                                                                                                                          | -0.356 (0.027)**<br>[0.027]** |                                |
| 2014 USNWR<br>Peer Review Score                                                                                                                                                                                                                                          |                               | 15.638 (1.105)**<br>[1.032]**  |
| 2014 State<br>Unemployment Rate                                                                                                                                                                                                                                          | 0.225 (0.843)<br>[0.752]      | -1.423 (0.823)^<br>[0.815]^    |
| % Clinic Positions<br>Available                                                                                                                                                                                                                                          | -8.491 (4.311)^<br>[3.837]*   | -16.001 (4.226)**<br>[4.573]** |
| Observations                                                                                                                                                                                                                                                             | N=101                         | N=101                          |
| Adjusted R <sup>2</sup>                                                                                                                                                                                                                                                  | 0.64                          | 0.67                           |
| Dependent variable is 2014 LST Employment Score; coefficients are reported with standard errors in parentheses and robust standard errors in brackets; models were estimated using OLS. **, *, and ^ indicate significance at the $p \leq 0.01$ , 0.05, and 0.10 levels. |                               |                                |

GRAPH A-2: OVER- AND UNDER-PERFORMERS (MODEL A-1)

