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Dean’s Column

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LAWYERS, THE BOYD SCHOOL OF LAW AND ECONOMIC GROWTH

The Good Life – both for individuals and for their society – is a function of many variables, and only some of them are economic or material in nature. Nonetheless, recent events have shone a strong spotlight on economic factors. Our nation has been locked in, and hopefully is starting to recover from, a sharp recession. Its effects have been particularly virulent in our state, as large budget shortfalls, high unemployment rates, dropping home values and rising foreclosures have all painfully demonstrated.

Against this background, one may ask how Nevada’s lawyers in general and new lawyers trained by the William S. Boyd School of Law in particular can contribute to favorable economic climates for our country and our state. Foes of our profession might snort that the opposite is the case. We all have heard the refrain that our torts system saddles American industry with burdensome, perhaps ruinous, costs that greedy lawyers cause economically wasteful defensive medicine and push up construction costs, and that over-lawyering kills good business deals or makes them less profitable. Unfortunately, the story of how lawyers contribute, and contribute significantly, to economic health is less often told.

Let’s consider four ways in which they do so. First, numerous lawyers are more to their business and individual clients than just legal experts. They are also among their clients’ trusted business advisors. These lawyer/advisors add value to their clients’ deals and transactions with sound business, as well as legal, counsel.


The examples are legion. They include the lawyer who saves a family business by careful succession planning and skillful (and legitimate) estate tax minimization, the attorney who shows a company how it can more effectively access capital markets

to obtain the funds it needs in order to expand, the lawyer who recommends for a new business the organizational form and capital structure most conducive to profitability, the attorney who shows a client how to protect vital intellectual property, and numerous others.

A broad spectrum of courses at the Boyd School of Law – taught by both our permanent faculty and our adjunct faculty – teaches students how to add value to their clients’ business affairs. Such instruction is a staple of our courses, among many others, in business planning, real estate finance, tax, estate planning and business organizations.

A second way in which lawyers promote sound economic development is through promoting balance. Laissez-faire as a dominant economic philosophy ended on both sides of the Atlantic Ocean well more than a century ago. (Our society will no longer accept the quest for profits unrestrained and unmoderated by other social goals.) Our citizens demand that economic competition be played out within civilizing rules of conduct and that innocent victims or casualties – both individual and environmental – of economic activities be compensated. The lawyers and law students who help to craft such rules or provide such justice are not enemies of economic activity. Instead, they provide the environment within which modern society demands such activity be conducted.

A third way in which attorneys advance economic growth is by fostering efficient dispute resolution. Ruinous litigation is more likely to be found in Dickensian novels than in contemporary legal practice. Indeed, growing emphasis on alternative – faster and less expensive – means of resolving disputes is a wholesome feature of contemporary legal practice. It is accompanied by other welcome complements, such



as the involvement of many Nevada lawyers, firms and public interest organizations in fair resolution of home mortgage indebtedness and foreclosure situations.

At the Boyd School of Law, we are proud of our Saltman Center for Dispute Resolution and our Strasser Mediation Clinic as mechanisms for teaching dispute resolution skills and approaches to both our students and the wider communities of which we are a part. We are proud, too, of our courses in mediation, arbitration and negotiation, and of the fact our professors have built alternative dispute resolution components into many other of our courses, including many “traditional” or “podium” courses.

A fourth way in which lawyers contribute to economic well-being is through working to improve Nevada’s regulatory structure. In an article entitled “The Future of American Power: How America Can Survive the Rise of the Rest” in the May/June 2008 issue of the prestigious journal *Foreign Affairs*, Fareed Zakaria persuasively argues that America’s economic institutions are likely to remain sound if our sometimes dysfunctional political system can be rehabilitated.

Put more positively, we in Nevada need look no further than our state’s leading industry to confirm that lawyers – by shaping a wise regulatory system – can contribute mightily to economic vibrancy. Nevada’s gaming sector would be but a shade of its present self without the gaming control system that has been fashioned by pioneering and far-sighted attorneys, both those in the private bar and those serving as elected and appointed officials. Nevada’s gaming regulatory system has been the model for the rest of the country and for the world, and it has been the basis of much of our economy. Nevada’s lawyers deserve significant credit for fashioning that system.

At the Boyd School of Law, we seek to inculcate in our students an understanding of the principles of sound public administration. We do so in courses as diverse as administrative law, legislation, legislative advocacy externships, legislative advocacy and regulatory-intensive courses such as our nationally pre-eminent gaming law courses.

America’s and Nevada’s lawyers need not bear without rebuttal cavils about the anti-economic effects of our legal system. To the contrary, our lawyers are important and positive hands on the gears of our engines of economic growth. The Boyd School of Law applauds these achievements of our bar, and it seeks to train new lawyers who will continue this success. ■

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