

WHY TRYING TO RANK LAW SCHOOLS  
NUMERICALLY IS A NON-PRODUCTIVE  
UNDERTAKING: AN ARTICLE ON THE U.S. NEWS &  
WORLD REPORT 2009 LIST OF "THE TOP 100 SCHOOLS"

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I.

I am very grateful to the editors of the *Drexel Law Review* for extending to me the privilege of contributing an article to the *Law Review's* first issue. The founding of a law review is a major step for a new law school to take. It is a strong statement to the national legal community that the students and faculty of the new school are committed to legal scholarship. The Drexel University Earle Mack School of Law is to be congratulated on taking this vital step.

The editors of the *Law Review* proposed that my contribution to this first issue address some aspect of legal education. I have done so in a fashion that the editors could not have anticipated and which—had I consulted them when I was turning over in my mind what subject to write about—they might have urged me to abandon in favor of some broader and deeper topic. But I did not consult the editors. I had no broad and deep issues of legal education in mind. But I realized that there was a narrow and rather shallow question that has rangled for years, and that I wanted to write a few paragraphs about. The question is whether the annual ranking of American law schools by *U.S. News & World Report* is a useful endeavor or a counter-productive one. I am convinced that it is the latter—that it is an incubus, bad for the health of legal education.

In the pages that follow I try to explain why the project, undertaken pursuant to the "methodology" described in the April 7/April 14 2008 issue of *U.S. News & World Report*, is un-

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sound in its own terms. That is to say, if one assumes, *arguendo*, that listing one hundred law schools in numerical rank-order from one to one hundred, in terms of a calculation of the relative merits of the listed schools, is a good thing, I argue that the many strands of data assembled by *U.S. News & World Report*, digested by the described “methodology,” are not designed to yield a reliable result. Next, I propose a more modest arithmetic that measures the relative merits of law schools by utilizing just one of the multiple strands of data—namely, the assessments of law school quality arrived at by law school deans and professors. This simple and more narrowly focused inquiry would, I submit, produce a more reliable (or, to be more precise, a less unreliable) rank-ordering. I then undertake to practice what I preach, and Appendix A of this Article presents a revised ordering of law schools.

But, having made the case for Appendix A, I proceed to argue that it too, while an improvement over the *U.S. News & World Report* list, is itself flawed. This is because the law professoriate’s assessments of law school quality—the key ingredient of the Appendix A ranking—while of somewhat more value than *U.S. News & World Report*’s distillation of several categories of data, are themselves an untrustworthy basis for measuring the quality of one law school as against the quality of another, since the standards of quality that the deans and professors are asked to apply are wholly undefined.

In completing the deconstruction—and, hopefully, the demolition—of both the *U.S. News & World Report* ranking and the Appendix A revised ranking, I argue that any serious attempt to measure the quality of a law school should include inquiry into a dimension unmentioned, let alone unexamined, by *U.S. News & World Report*—namely, how recent and current law students feel about their alma mater. A major difficulty, of course, is that a useful inquiry would be very difficult to design and carry out. But the larger difficulty is that the findings, while very likely of real interest (most especially to college seniors deciding which law schools to apply to)<sup>1</sup> would be unquantifiable. Inclusion of a factor that generates no num-

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1. As pointed out later in this Article, some of the data assembled by *U.S. News & World Report*, while (a) susceptible of numerical presentation but (b) constituting only marginal indicia of law-school quality, can be of valid interest to those planning to attend law school—e.g., how soon graduating law students (a) pass the bar examination, (b) get jobs.

bers would defeat the goal of *U.S. News & World Report* (and, albeit to a lesser degree, of Appendix A).

In sum, I conclude that the ranking produced in 2008 by *U.S. News & World Report* (a ranking that *U.S. News & World Report* refers to as a “2009” ranking, a label this Article will conform to) is flawed, and that the Appendix A revised ranking is only slightly less so. I further argue that preparation of a less unreliable ranking would require the inclusion of data that cannot be quantified, with the result that numerical rankings could not be calculated. I close the Article with the submission that since it is not feasible to give numerical value to a law school’s quality, so that quality comparisons of one law school with another could be calculated by the numbers, to make the effort to achieve a numerical ranking is to encourage law schools to compete for a glittering but empty prize—a prize that may beguile, but not intelligently inform, those who are planning to study law, as well as those who have graduated into the profession of law and wish to advance their profession.

## II.

There will be a day in the late winter or early spring of 2009 when this first issue of the *Drexel Law Review* hits the newsstands. On that day (and, indeed, before and after that day) there will be a goodly number of seniors at American colleges who are hoping to commence the study of law at an American law school in the fall of 2009. Most, and perhaps all, of these lawyers-of-the-future will by then have applied for admission to a number of law schools, and some will have already been advised of acceptance by one or more law schools. How does one decide which law schools to apply to, and which school to attend?

The typical law school applicant will, presumably, have consulted with those of her professors who may be knowledgeable about law schools, and she will, presumably, also have sought the advice of any relatives and friends who are, or who are acquainted with, lawyers. But somewhere along the line—and very likely no later than the early fall of 2008, at a time prior to submitting her applications—she will probably have had her attention drawn to the law school ranking published in the April 7/April 14, 2008 issue of *U.S. News & World Report*. For more than twenty years that journal has undertaken

annually to assess the relative quality of American law schools. Its 2007 survey of the 184 law schools accredited by the American Bar Association led to the publication in the April 7/April 14 issue of its list, in rank order, of the one hundred schools it deemed “best.” (The law schools surveyed but not listed among the 100 “best” were grouped alphabetically in a Third Tier and a Fourth Tier; but these groupings were not presented in the April 7/April 14 issue. The reader of the April 7/April 14 rank-list is advised that there is “more” at “www.usnews.com”; but this Article does not undertake to examine the “more” website—it focuses entirely on what the reader of the April 7/April 14 issue will have gleaned from that primary source.) (It should also be noted that the April 7/April 14 issue ranks fifty business schools, fifty schools of education, fifty-one schools of engineering, fifty schools of medicine, ninety-four schools of nursing, fifty public affairs programs, and thirty-two library science programs; these rankings are, of course, outside the scope of this Article.)

What would our hypothesized law school applicant have found in the list of “The Top 100 Schools” (a glitzy caption that is in fact a misnomer, as I explain in note two *infra*)?<sup>2</sup> She would have found Yale resting comfortably in first place with an “overall score” of “100.”<sup>3</sup> She would have found five law schools resting uncomfortably in a five-way tie for one hundredth place, each with an “overall score” of “38.” Does that signify that those schools are only 38% as good as Yale—and, if so, what would that mean? Our hypothesized law school applicant would, moreover, have found Harvard and Stanford tied for second in the ranking, each with an “overall score” of “91” as compared with Yale’s “100.” Does that mean that Harvard and Stanford are approximately a tenth less good than Yale—and, if so, what would that mean? The foregoing questions suggest that we should examine the ingredients of the “overall score.” To this we will now turn.

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2. Because the one-hundredth place on the list embraces *five* schools that are tied in “overall score,” the total number of listed schools is 104, not 100. However, this Article will conform to *U.S. News & World Report’s* representation of the number of schools listed as 100, except where this would be misleading (e.g. the text at note 5 *infra*).

3. As an alumnus, and former faculty member of Yale, the author of this Article has sentimental reasons to be pleased at the recognition accorded that estimable institution. But sentiment does not trump one’s obligation to inquire what the arithmetic is that has produced that placement, and what the placement signifies.

## III.

*A. The Components of "Overall Score"*

The ranking of the one hundred "top" law schools, and the factors that, in combination, determine the "overall score" of each of the one hundred are set forth on pages sixty-six and sixty-eight of the April 7/April 14 issue. The guiding "methodology" is as follows:

1. Twenty-five percent of the "overall score" is what is termed a "peer assessment score." To determine that score, "[t]he dean and three faculty members at each school were asked to rate schools" with which they felt sufficiently familiar, employing a five-point scale running "from 'marginal' (1) to 'outstanding' (5)." Seventy percent of the deans and professors polled responded.
2. Fifteen percent of the "overall score" is an assessment of law school quality by lawyers and judges, using the same five-point scale employed by deans and professors. Twenty-six percent of the polled lawyers and judges responded.
3. Twenty-five percent of the "overall score" is a measurement of a law school's "selectivity." The "selectivity" of a law school is a function of three factors: (1) the median LSAT scores, at the 25th and 75th percentiles, of students entering the law school in 2007 (these numbers constitute 50% of the aggregate "selectivity" score); (2) the median undergraduate grade-point averages (GPAs), at the 25th and 75th percentiles, of students entering the law school in 2007 (these numbers constitute 40% of the aggregate "selectivity" score); and (3) the proportion of those applying to the law school in 2007 who were accepted (this number constitutes 10% of the aggregate "selectivity" score; with respect to this third selectivity factor, the smaller the proportion of applicants to those accepted, the higher the school's "selectivity").
4. Twenty percent of the "overall score" is captioned "placement success." This has three elements. Two of

these elements address how quickly those graduating from a particular law school in 2006 gained employment: (1) the proportion of 2006 graduates who had secured employment as of the date of graduation—this is 20% of “placement success”; (2) the proportion of 2006 graduates employed as of nine months after graduation—this is 70% of “placement success.” The third element addresses success on bar examinations: how well a law school’s “first-time test takers” did in 2006 and 2007 in the state in which a plurality of 2006 graduates took the examination—this is 10% of “placement success.”

5. Fifteen percent of the “overall score” is measured by what is termed “faculty resources.” This constitutes an amalgam of: (1) “average 2006 and 2007 expenditures per student for instruction, library, and supporting services”—this is 65% of “faculty resources”; (2) the per student expenditures for “all other items including financial aid”—this is 10% of “faculty resources”; (3) “2007 student/teacher ratio”—this is 20% of “faculty resources”; and (4) “total number of volumes and titles in library”—this is 5% of “faculty resources.”

### *B. The Pertinence of the Components of “Overall Score”*

Law schools have two functions—to train lawyers, and to advance legal scholarship. The two are closely intertwined. To be a fine law school is to do both things well.

The experts on the training of lawyers and the production and evaluation of legal scholarship are the people who carry out that activity. In our society such people are known as “law professors.” What is chiefly anomalous about *U.S. News & World Report’s* ranking of “The Top 100 Schools” is that the so-called “peer assessment” of each law school—i.e., the law professoriate’s qualitative judgments about a law school’s excellence—counts for only 25% of what *U.S. News & World Report* magically calculates as a law school’s “overall score,” and hence its place—one to one hundred or somewhere in between—in the law school sweepstakes.

It might be argued that assigning only a quarter of a school’s “overall score” to the views of law professors is ameliorated

by the fact that lawyers and judges are also asked to assess the quality of the law schools they are acquainted with, and those assessments add 15% to “overall score.” But the views of bar and bench—weighted at three-fifths of the views of deans and professors—would appear to be of greatly exaggerated value.<sup>4</sup> It is, of course, the fact that lawyers and judges are the principal employers of graduating law students, and so it would not seem unreasonable to suppose that lawyers and judges are in a position to assess the adequacy of the training of their new hires. But the newly minted law graduates hired as law firm associates, or selected as judicial clerks, are not chosen as average graduates of a particular school, but rather for their expected excellence, and this suggests that bar/bench assessments would tend somewhat to overstate the quality of the law schools with which lawyers and judges would feel themselves to be reasonably familiar. Somewhat confirmatory of this is the fact that, of the one hundred listed law schools, there are only two instances in which the bar/bench assessment is lower than the professorial assessment; the bar/bench assessments exactly match the professorial assessments for the first-place “overall score” school (Yale), for one of the two tied-for-second schools (Harvard), for the fourth place school (Columbia), for the fifth place school (NYU Law School), for the sixth place school (Berkeley), and for one of the two tied-for-seventh place schools (University of Chicago Law School). Each of the ninety-six other listed law schools<sup>5</sup> is more highly regarded by the bench/bar than by the professoriate.<sup>6</sup>

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4. The author of this Article owes it to the reader to disclose that he is not one of those whose perceptions of law school quality have been solicited and hence are components of the fifteen percent of “overall score.” The author hopes—and assures the reader that he verily believes—that his exclusion from the select group of lawyers and judges asked to assess law school quality has not so undermined his objectivity as to render worthless his jaundiced view of the value of lawyer/judge law school evaluations.

5. The reader of the last two sentences of the text paragraph who has been paying close numerical attention will have noted that the total number of schools discussed comes to 104, not 100. See *supra* note 2.

6. There are two additional reasons for giving substantially less weight to the bar/bench assessments than the professorial assessments:

The first reason is that, of the lawyers and judges canvassed by *U.S. News & World Report*, only 26% responded, as compared with a 70% response rate on the part of the professors and deans. Unless, by virtue of some remarkable coincidence, the lawyers and judges canvassed were almost three times as numerous as the professors and deans, the discrepancy in response rates would seem to require assigning far less weight to the bar/bench assessments.

The second—and perhaps more compelling—reason is that (it is respectfully submitted)

This does not mean that what lawyers and judges think about a law school's quality should be given short shrift. To the contrary: it is a datum about a law school's reputation that has some pertinence to a law student's projected job opportunities as she nears graduation. It is a datum that a college senior, choosing which school to attend, may properly have in mind, together with the data on "placement success" presented by *U.S. News & World Report*. But whatever utility the "placement success" data may have, such data—which *U.S. News & World Report* treats as a 20% fraction of "overall score"—should not be thought to have more than minimal significance in assessing a law school's quality.

As with the law professoriate's assessments of law school excellence, what *U.S. News & World Report* terms a law school's "selectivity" also counts for a quarter of a law school's "overall score." Quite apart from the double-counting probability (i.e., the likelihood that a dean or professor assessing a law school's excellence would give some, albeit limited, weight to the projected academic promise, as measured by LSATs and GPAs, of an entering law school class), to give the same numerical weight to "selectivity" as to the dean/professor estimate of a school's effectiveness in carrying out its training and scholarly functions is bizarre. Of course this is not to say that information about a law school's "selectivity" would not be useful to a college senior who, in deciding which law schools to apply to, would consider the available evidence as to which schools are ones to which she would be likely to gain admission.

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those of us who are lawyers and judges are, as a general matter, not well qualified to appraise the scholarly achievement and potential of law professors. Thus, even if it be assumed arguendo that we can make reliable assessments of the quality of the training law students receive at Law School X and at Law School Y, we have very little to offer in the way of assessments of the scholarship produced at Law School X and the scholarship produced at Law School Y. Most of us have some familiarity with major treatises (or at least it is to be hoped that we do), but not many of us are up-to-datately conversant with the law reviews. Even those lawyers and judges who maintain close connections with one or more law schools are not likely—in the absence of intimate acquaintance with at least one of the fields of current scholarly activity—to be able to contribute much to assessments of the scholarly aspects of legal education. (An important qualification of this last generalization is in order: All law schools draw on lawyers and judges as adjunct faculty members. They teach, and sometimes even write, in their areas of specialty. Thus, occasionally, their views of aspects of a school's scholarly activities may be of real value.)

## IV.

In sum, it is submitted that the “overall score” calculated and widely publicized by *U.S. News and World Report* is not a helpful statistic. This is not a new thought. Deans, in a collective statement, publicly deplored the *U.S. News and World Report* ranking a number of years ago.<sup>7</sup> Does the flawed *U.S. News and World Report* ranking matter? Does anyone care? It is respectfully submitted, on information and belief, that the answer is a resounding “yes.” Deans (and even some university presidents) care. Professors not engaged in administration also care, albeit perhaps not as intensely as deans (professors care out of loyalty to their institution, and also because they may feel, quite understandably, that a school’s ranking may be perceived by outsiders as a measure of the standing in the academic marketplace of individual professors). Why do they all attach importance to what they know is a slipshod measurement?<sup>8</sup> Because it’s the only game in town that matters.<sup>9</sup>

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7. In 2005, the ranking was characterized by one hundred deans as “inherently flawed.” See William D. Henderson & Andrew P. Morris, *Student Quality as Measured by LSAT Scores: Migration Patterns in the U.S. News Ranking Era*, 81 IND. L.J. 163, 165 n.2 (2006) (citing LAW SCHOOL DEANS SPEAK OUT ABOUT RANKINGS (Law School Admission Council 2005)). The Henderson/Morris essay is one of several articles in a symposium issue of the *Indiana Law Journal* addressing aspects of the *U.S. News & World Report* law school ranking project. See Symposium, *The Next Generation of Law School Rankings*, 81 IND. L.J. 1 (2006).

8. Current evidence that the *U.S. News & World Report* ranking matters—in the sense that law schools attach great importance to gaining a high place—is provided by a recent item in *The New York Times*. The *Times* report is about a new law school at Irvine, California, very recently established by the University of California—the University’s fifth law school (the other four, are Berkeley, Davis, Hastings, and UCLA). The Irvine Law School’s dean is Erwin Chemerinsky, one of the nation’s leading scholars in Constitutional Law. The school’s first class is the one entering in the fall of 2009:

A law school opening next fall in Southern California is offering a big incentive to top students who might be thinking twice about the cost of a legal education during the recession: free tuition for three years. The offer is part of a strategy by Erwin Chemerinsky, a renowned constitutional law scholar and dean of the new school at the University of California, Irvine, to attract Ivy League-caliber students to the first new public law school in the state in 40 years. The law school hopes to offer full scholarships to all 60 members of its inaugural class in 2009. Mr. Chemerinsky is convinced the prospect of free education, combined with a public-interest curriculum and the University of California moniker, will fill his first class and land Irvine among the nation’s best law schools. “Our goal is to be a top 20 law school from the first time we are ranked,” he said.

National Briefing West, *California: Law School Lure: No Tuition*, N.Y. TIMES, Dec. 25, 2008, at A20.

9. There are other rankings that address other aspects of law school. For example, Professor Brian Leiter’s Law School Rankings web-page provides a variety of rankings of law school

## V.

In the foregoing section of this Article, it is argued that the 2009 *U.S. News & World Report* law school ranking is flawed—a not very reliable guide to the relative quality of 104 law schools because it is produced pursuant to a flawed “methodology.” The chief difficulty with the ranking is that the one clearly pertinent datum—the “peer assignments” by law school deans and professors—accounts for only 25% of the “overall-scores” of the 104 listed schools. It is submitted that a less untrustworthy ranking would be based exclusively on the “peer assessments” since these are the informed views of the people responsible for, and expert in, legal education. It is possible that, by the time this issue of the *Drexel Law Review* is published, *U.S. News & World Report* will have presented to the world a new law school ranking—a 2010 version. Whether or not a 2010 version is now in existence, it is submitted that correcting the flawed 2009 ranking should, for a variety of reasons, be a useful undertaking:

**First:** It is the 2009 version under whose guidance those who will be entering law school in 2009 have applied for admission. Further, many, perhaps most of those applying to law school, have by now received notices of acceptance to one or more law schools. And a substantial proportion of those accepted have—again under the guidance of the 2009 ranking—decided which law school to attend. In short, for those about to begin studying law, the 2009 ranking has continuing significance.

**Second:** Correcting the 2009 “methodology” may help *U.S. News & World Report* to do a better job in the future—if further pursuit of this enterprise is thought to be of value.

**Third:** History has its claims. Leaving error undisturbed is to say that history doesn’t really matter.

With these factors in mind, a revised 2009 ranking has been prepared and it is appended to this Article as Appendix A.

This revised ranking builds on the “peer assessment” by law school deans and professors of the quality of the schools they are familiar with.

As noted earlier in this Article, those “peer assessments” constitute only 25% of the “overall score” calculated by *U.S. News & World Report*. And, as previously explained, it is the view of this commentator that, of the various items of information that are components of the 2009 *U.S. News & World Report* ranking, only the views of the deans and professors speak in any significant way to the quality of the law schools. Other components, such as “selectivity,” or the time it takes, on average, for a graduate to get a job, are of undeniable interest to a college senior deciding which law schools to apply to, or which, of the schools offering admission, she should select. Factors such as these may say something about how a particular school is perceived in certain portions of the marketplace, but they are of limited helpfulness as gauges of the school’s quality, as a center of training and research, as compared with the quality of other schools.

Anyone who has read this far is entitled to know just how the appended revised ranking has been put together:

It will be recalled that the deans and professors were asked to rate schools on a scale running from “‘marginal’ (1) to ‘outstanding’ (5).” The professoriate graded none of the schools 5. The highest grade is 4.8, and this went to Yale and Harvard. Close on their heels are Stanford and Columbia at 4.7 and the University of Chicago at 4.6. Eleven other schools are graded 4.5 down to 4.0. The superior quality of the sixteen schools in the 4 range—i.e., graded by the professorate at 4.0 to 4.8—is evidenced by the fact that the six lowest are (listed alphabetically) Cornell, Duke, Georgetown, Northwestern, UCLA, and the University of Texas, all widely recognized as among the nation’s leading law schools. Exercising my own unbridled discretion, I have divided the sixteen members of the “4” group into three sub-groups—those at 4.6 to 4.8, the highest three-decimal range; those at 4.3 to 4.5, the middle three-decimal range; and those at 4.0 to 4.2, the lowest three-decimal range. Within each sub-group, I list the schools alphabetically, not attempting any further differentiation. (As a model I have in mind academic conventions which, I am reliably informed, are still in use at some institutions of higher learning (including law schools), pursuant to which the very best examina-

tions or term papers are sorted into grades of "A+," "A," and "A-," without any further differentiation.)

Twenty-eight schools are in the "3" range. Here, as with the "4" range schools, I have divided the range into three groups: the seven schools graded 3.5 to 3.8; the eleven schools graded 3.3 and 3.4; and the ten schools graded 3.0 to 3.2. The schools in each of the three groups are listed alphabetically. The "3" range is strong: Most of the schools are of quite substantial academic reputation. Indeed, it is not clear that certain of the fine schools in the 3.5 to 3.8 range are significantly distinguishable in important ways from certain of the schools in the 4 range.

The balance of the listed schools are in the "2" range and are sixty in number. Here again I have divided the range into three groups listed alphabetically: twenty-nine at 2.6 to 2.9; ten at 2.4 and 2.5; and eleven at 2.1 to 2.3. The schools in this range are primarily regional, but they are, for the most part, of recognized merit.

## VI.

Having constructed the law school ranking presented in Appendix A, I now argue that it, too, though cleansed of much of the detritus that bogs down the *U.S. News & World Report* ranking, is itself an unproductive exercise.

The dean/professor "peer-assessments" of law school quality that underpin the Appendix A ranking, while somewhat more to the purpose than the multiple factors entering into the *U.S. News & World Report*, are themselves of questionable reliability. The principal difficulty stems from the quality scale that the assessors are asked to apply—namely, gradations running from "'marginal' (1)" to "'outstanding' (5)," with no intermediate labels. Those designations of relative quality are, as set forth in *U.S. News & World Report*, wholly undefined. Thus, what attributes of relative quality one dean or professor may have had in mind in deploying a 4.5, or a 3.7, or a 3.3, or a 2.9, or a 2.5, may have been very different from the attributes another dean or professor may have attached to the same numbers. That markedly reduces the pertinence of the numbers, which dress themselves in an apparent precision they

have no proper claim to.<sup>10</sup>

By way of illustration, let us take further note of the fact that the assessing deans and professors did not award any law school a 5.0, with the accompanying sobriquet “outstanding.” In the aggregate judgment of the deans and professors, 4.8 was the best any school could attain. With this in mind, after surveying the sixteen schools receiving a grade of 4.0 or better, I have concluded that all sixteen are superior institutions. But, as noted above, with a bow to the differentiations arrived at by the peer assessors, I have divided the category into three sub-groups and I have listed the schools in each sub-group alphabetically to suggest that they appear to be of essentially indistinguishable merit.<sup>11</sup> And I have followed the same practice with the schools in the strong 3 category and the good 2 category, dividing each into three sub-categories, alphabetically listed.

If we were to assume—contrary to the fact—that the labels from “marginal” to “outstanding” had some uniformly understood content, the notion that the labels could lend themselves to useful forms of decimalized measurement and application would still, in my judgment, be bizarre. What deans and professors asked to assess law school quality can usefully do is identify a school’s special strengths: e.g., the broad array of legal clinics at Georgetown, the University of Washington’s Asian Law Center, NYU’s focus on jurisprudence, the programs in Native American Law at Arizona and at Arizona State, Vermont Law School’s concentration on environmental law,<sup>12</sup> the University of Maryland’s Law and Health Care Pro-

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10. There is a further potential problem with placing exclusive reliance on the “peer assessments” of the professoriate. Deans and professors are not external to a ranking process. Their own institutions are involved. So there is a risk that a dean or professor may, unintentionally, inflate the home school and/or deflate perceived competitor schools.

11. The suggestion that all the schools in a given sub-category would seem to be of indistinguishable merit is subject to some qualification.

It appears to me that there are instances in which schools in one sub-category are essentially on a par with a school or schools in a higher sub-category: For example, it is not at all clear to me that there are significant, readily identifiable, elements of quality that separate Fordham (3.3) or Ohio State (3.4) from the University of Iowa (3.5), or that separate Georgetown (4.2) from the University of Virginia (4.4).

Indeed, there are even instances in which, as I see it, the line between schools in one range and schools in a higher range tends to blur. Thus, it is not entirely clear to me that the fine schools in the 3.5-3.8 group are plainly of lesser merit than certain of the schools in the 4 range.

12. Vermont is not among “The Top 100 Schools.” Doubtless it is one of the 80 other (184

gram, Northeastern's externship system,<sup>13</sup> and Cardozo's Innocence Project, now about to be replicated at Temple.

If deans and professors are to be called on to assess—hopefully, not via a decimalized quantification—the quality of law schools about which they are well-informed, such “peer-assessments” should, ideally, be matched with what might be termed “customer assessments”—the views of recent and current law students. It is not unheard of that students at universities of strong reputation find that professors great and small can be relatively dismissive of their teaching responsibilities. Law schools are, on the whole, emphatically respectful of the teaching function, but on occasion the virus of classroom-neglect has been known to affect law schools as well. A related question is whether students find the culture of the school to be a welcoming one. Information about these matters would of course be of value to those choosing what law school to attend. But such information would also constitute a significant index of the degree to which a school has fulfilled its teaching functions. It would seem not unlikely that students who are turned off of the law in law school may not find their subsequent professional careers as rewarding as those students whose law school years have been a stimulating challenge, opening new horizons.

Of course it is one thing to ask that those assessing law schools to give weight to the views of recent and current students, but it is quite another to construct the necessary inquiry. To design and carry out an in-depth exploration of student attitudes, and what underlies those attitudes, would be expensive, both in time and dollars, and would seem to require the thoughtful collaboration of persons expert in a number of disciplines. And the results would not be quantifiable in the neatly decimalized fashion that has commended itself to the architects of the *U.S. News & World Report* ranking.

## VII. CONCLUSION

Earlier in this Article I said that law school deans and professors care about the *U.S. News & World Report* ranking (i.e., that they are anxious about the ranking, not that they cherish

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minus the listed 104) A.B.A.-accredited schools surveyed by *U.S. News & World Report*.

13. Northeastern's externship is, of course, a model for Drexel.

it) because it's the only game in town that matters. In the foregoing pages I have argued that the game is not worth the candle. I have gone farther: I have argued that there is no candle. A numerical ranking of law schools, in terms of relative quality, is a chimera—one that will dazzle, or will frustrate, but will not inform. Nothing is gained when institutions that play important roles in our society spend time seeking the favor of false gods.

## APPENDIX A

### *Warning to the Reader:*

**As explained in the foregoing pages, the reason for constructing a revision of the 2009 *U.S. News & World Report* ranking of law schools is that, in my opinion, the *U.S. News & World Report* ranking is a signally defective document. This revision utilizes, as the basis of its ranking, only a single ingredient of the several numerical ingredients (some, but not all, of some statistical worthwhileness) on the basis of which *U.S. News & World Report* put together its ranking. It is, however, my considered judgment that the ranking I have constructed is also defective—not quite as unmeritorious as the *U.S. News & World Report* version—but still very inadequate.**

**In short, *caveat emptor* (or, perhaps more properly, *caveat lector*).**

Appendix A is a table constituting a revision of the 2009 *U.S. News & World Report* ranking of "The Top 100" law schools. The revised ranking is based entirely on what *U.S. News & World Report* reported as the "peer assessments" by law school deans and professors of the quality of the schools they are familiar with. The deans and professors were asked to formulate their assessments on the basis of a scale running from "1," representing a "marginal" school to "5," representing an "outstanding" school. The "Top 100" schools listed in the 2009 *U.S. News & World Report* ranking received grades in the "2" range, the "3" range, and the "4" range—none at "5" and none below "2." The table below consists of three groups: the "4" range schools, the "3" range schools, and the "2" range schools. Each group is divided into three sub-groups, accord-

ing to the schools' decimalized places within the applicable range. The Schools in the sub-groups are listed alphabetically.

1.
  - (a) 4.6–4.8  
University of Chicago; Columbia; Harvard; Stanford; Yale
  - (b) 4.3–4.5  
Berkeley (U. of Cal.); University of Michigan; NYU; University of Pennsylvania; University of Virginia
  - (c) 4.0– 4.2  
UCLA; Cornell; Duke; Georgetown; Northwestern; University of Texas
2.
  - (a) 3.5–3.8  
George Washington University; University of Iowa; University of Minnesota; University of North Carolina; University of Southern California; Vanderbilt; Washington University (St. Louis)
  - (b) 3.3–3.4  
Boston College; Boston University; Davis (U. of Cal.); Emory; Fordham; Hastings (U. of Cal.); University of Illinois; Notre Dame; Ohio State; Washington and Lee; University of Wisconsin
  - (c) 3.0–3.2  
American University; University of Arizona; University of Colorado; University of Florida; University of Georgia; University of Indiana (Bloomington); Tulane; Wake Forest; University of Washington; William and Mary
3.
  - (a) 2.6–2.9  
University of Alabama; Arizona State; Brigham Young; Brooklyn Law School; Cardozo (Yeshiva); Case Western; University of Cincinnati;

University of Connecticut; Florida State; George Mason; University of Houston; Illinois Institute of Technology; Indiana University (Indianapolis); University of Kansas; Loyola Marymount; University of Maryland; University of Miami; University of Missouri (Columbia); University of Oregon; University of Pittsburgh; Rutgers (Camden); Rutgers (Newark); University of San Diego; Santa Clara University; Southern Methodist; Temple; University of Tennessee (Knoxville); University of Utah; Villanova

(b) 2.4-2.5

Baylor; University of Buffalo; Catholic University; University of Denver; DePaul; University of Hawaii; Hofstra; University of Kentucky; Lewis and Clark; Loyola (Chicago); University of Nebraska (Lincoln); University of New Mexico; Northeastern; University of Oklahoma; Pepperdine; University of Richmond; St. John's; St. Louis; Seton Hall; Syracuse

(c) 2.1-2.3

Georgia State; Louisiana State (Baton Rouge); University of Louisville; Marquette; Mercer; University of Nevada; University of the Pacific; Penn State (Dickinson); Seattle University; University of South Carolina; Stetson