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The Modern Law Dean

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> **Rainmaker:** A member of a tribal community believed or claiming to be able to procure rain by the use of magic.
>
> — *Oxford English Dictionary*

Law school deans have an enviable job. They lead, *in a loose sense,* a distinguished institution and are well paid for the privilege. It is a hard job, but doubtless there are harder ones. The law deanship requires the ability to play many roles.[1] It is the thesis of this article, however, that one role is beginning to overshadow the others. We have entered an era when increasingly the law dean is first and foremost public envoy, professional fundraiser, and alumni booster. I call this law dean "the rainmaker."[2] Of course law deans have always been rainmakers to some extent, especially in the private schools. But today the external role is becoming paramount throughout legal academia and forcing a reallocation of the dean's time and energies. The rainmaker law dean often spends more than half of her time on rainmaking activities. In this essay I consider the implications of the rise of the rainmaker law dean for universities, colleges, faculties, and students, and for deans themselves.

My purpose is neither to mourn nor to applaud the rise of the rainmaker, though we have cause to do both. In my view the rise of the rainmaker law

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1. These roles have been well described by others. See, e.g., Association of American Law Schools, Law Deanship Manual 3–20 (Washington, 1993); Jeffrey O'Connell & Thomas O'Connell, The Five Roles of a Law Dean: Leader, Manager, Energizer, Envoy, and Intellectual, 29 Emory L.J. 605 (1980).

2. Inherent in my use of the term *rainmaker* are three allusions to legal or popular culture. The rainmaker in a law firm is usually a senior partner who by virtue of reputation, personality, and connections brings in well-paying clients. Younger lawyers sometimes use the term derisively to indicate a partner who may bring in the work but who does not do much work himself. The novelist John Grisham, in *The Rainmaker,* uses the term sardonically to describe a new law graduate who happens upon a huge insurance fraud case. In Richard Nash's play *The Rainmaker* and the movie based on it, the title character is a con man who asks hapless ranchers to give him their meager savings in exchange for his service of bringing rain to their drought-stricken range. My choice of the term is an effort to voice my ambivalent feelings about this evolution in the office of dean.

dean is necessary, and possibly inevitable. If one embraces this view, the question then becomes how do we shape the rainmaker to make him an effective and positive leader? Though the rise of the rainmaker may be inevitable, the precise character of the position is not. This essay is my sketch for the shape it should take. I am far from believing that I am uniquely suited to write on this subject. It is my hope that others will find this piece worthy of reply and the ideas in it worthy of dispute or of further development.

What Is Driving the Rise of the Rainmaker and What Are the Opportunities It Presents?

Powerful forces that cannot be deterred or safely disregarded are contributing to the rise of the rainmaker. Obviously, the financial needs of our schools are driving the trend. Most private schools are pressing the limits of what they can charge their students. The public schools are being asked to raise more of their budgets with tuition and private funds. At the same time the costs of libraries, technology, buildings, salaries, and other capital costs and operating expenses continue to rise. As a result private giving is an indispensable component of the overall financial picture of legal education, and the dean is uniquely situated to maximize this private giving through her personal efforts.

But, just as fundamentally, our marketing sophistication is increasing. We know the opportunity is there. We know we can do it. Bigtime fundraising is not just for the Ivy League any more. Today public law schools and lesser-known private schools are into it as well. The most stunning illustration of this is the $100 million gift to the University of Arizona law school by James E. Rogers in 1998.[3] But there are other recent examples. Ave Maria School of Law will receive a $50 million gift from Thomas S. Monaghan.[4] The University of Washington law school was given $20 million by the William Gates family.[5] The University of Florida's law school recently received $10 million from Fredric G. Levin.[6] The Temple law school was recently bequeathed $9 million by Leonard Rubin.[7] Such gifts enable an institution to rise to new levels of quality and creativity. But they are only the more sensational indicators of a sweeping trend in major giving. Law schools around the country are routinely raising tens of millions annually in smaller increments than I have described above. It is these bread-and-butter gifts and bequests along with the more modest *and more numerous* annual gifts that are the main treasure to be mined. What is more, I believe that most schools have scarcely tapped their fundraising potential. The combination of a philanthropic tradition, a large base of grateful alumni, tremendous growth in individual wealth, a meritorious case,

3. Martin Van Der Werf, UA Law School Gift Grows: Donation Now at $100 Million, Ariz. Republic, Nov. 25, 1998, at B1. The gift is being made over a number of years.

4. $50 Million to Create Catholic Law School, N.Y. Times, Apr. 9, 1999, at A18.

5. Folke Nyberg, The Corporate Ties That Bind UW Law, Seattle Times, Apr. 15, 1999, at B5.

6. What's in a Name? 35 Fla. Law., Spring/Summer 1999, at 24. The gift is matched by a $10 million grant from the Florida legislature.

7. April White, Temple Starts Public Interest Scholarship, Academic Program, Legal Intelligencer, Mar. 27, 2000, at 1.

and our tax system makes charitable giving to law schools highly appealing.[8] With so many factors favoring our cause, we would be foolish not to invest more resources in our fundraising efforts. Even if we did not have great need for additional funding, we could scarcely turn our backs on these readily available low-cost revenues. And the fact is that most of us have real and growing need for these gifts.

Nor is it only a question of money. We have discovered that marketing works and is necessary for other purposes besides fundraising. We know that our school's reputation is an asset we can build or destroy and that real consequences come with either outcome. *U.S. News and World Report* has seen to this.[9] If we raise our profiles we will get more or "better" students. Our students will get better jobs. We can recruit better faculty. We can win the support of the practicing bar and the judiciary. We are not yet at the point where image is *everything,* but that is the direction in which we are tending. Substance still counts, but now we feel the pressing need to find new ways to communicate our substantial virtues to the outside world. Our deans are important figures in this process, both practically and symbolically.

Law schools are competing with one another more directly and openly than in the past. Most law schools spend more time and money on paper and electronic publications than ever before. The publications are glossier and more polished. The construction and maintenance of our Web sites is now a fundamental part of our daily business. The Internet gives us wider access not only to our traditional markets but also to the global markets. With the rise of the Web site, everything we do has the potential to be a media event. One way to maximize the media value of our activities is to establish our identities through some form of celebrity. For example, we can easily make our public lectures into marketing opportunities by inviting speakers with media value or name recognition. Our deans also play an important role in this process of building public recognition. They are public symbols of who we are. The dean's photographic image is a trademark of the law school. The deanship is now a minor form of celebrity, and the dean is expected to exemplify and enunciate the virtues of the institution.

Part of the pressure we feel to become more aggressive in our approach to the market for legal education arises from changes in the legal profession and changes in its attitude toward us. The MacCrate Report signaled this latter

8. The Internal Revenue Code permits deductions for both income tax and gratuitous transfer tax purposes for gifts to public charities. See I.R.C. §§ 170, 2055, 2522. These charitable deductions include untaxed appreciation of capital assets such as corporate stock and real estate. There are many tax planning opportunities presented by the charitable deductions. See, e.g., Charitable Contributions: Income Tax Aspects: Detailed Analysis, 521-2nd Tax Mgmt (BNA) (1999).

9. As most persons associated with legal education know, for more than a decade now *U.S. News and World Report* has annually published a ranking of all the ABA-accredited law schools in the country. Although the methodology has changed from year to year, reputation surveys have been a major factor in the ranking system. The importance of rankings has grown with each passing year, and other systems have been put in place. The ABA has finally accepted the permanence of the ranking system and now publishes its own guide to U.S. law schools, which contains uniform data for all ABA-accredited law schools without ranking them.

change most clearly.[10] The profession is demanding from the law schools a more finished product. In particular, we are under pressure to allocate more resources to clinical education and skills training. Not only are we obliged to raise more money for these expensive enterprises; we must also reassure the profession of the quality of our efforts and of our graduates. We must now treat the profession as a valued customer whose needs and wishes we desire to understand and meet. The profession is now one of the markets we must cultivate with our publications and our decanal outreach. Moreover, the legal profession, which we serve and depend upon, is becoming more corporatized and globalized. If we want to be players in those changes, and I think we do, our deans have to be involved with the lawyers and law firms, with judges and courts, with the bar, and with other schools.[11]

Why the Dean?

Why, you may ask, must it be the dean? Can't someone else raise the money? Can't someone else build the school's reputation? Can't someone else meet and greet the alumni? Can't someone else connect with the profession? In fact someone else usually does much of the hard work of these jobs. (In this respect an analogy to the law firm rainmaker is especially apt.) Faculty often have close ties with some part of the profession and contribute mightily to the school's reputation through their teaching, service, and research. Professional advancement officers build connections with alumni and potential donors. Directors of career services and continuing legal education connect with practicing lawyers. But to external audiences the dean symbolizes the law school. She is the one designated to offer its vision for the future. For gifts of substantial size she has to be there at the ask. She must be present at major alumni events and at important conferences. She must speak on ceremonial occasions. Her presence is part of the emotional reward to the donor or the audience. Her presence shows respect.

The dean's presence not only shows proper respect for the external audiences, it also commands respect from them. Potential donors, especially alumni, typically have an automatic regard for the dean that transcends the individual characteristics of the present holder of the office. A personal call or visit from the dean often gets such a person's attention in a way that no other action can. The dean has special access to other people and institutions that are important to the school. In my state, for example, the dean of the law school is a standing member of the board of directors of the state law foundation. Obviously the dean has special access to key university officials as well. He has access to important business and government officials. These aspects of the deanship are nondelegable. Though equally vital, other aspects of the deanship such as the management of the day-to-day operations of the school are delegable.

10. Section of Legal Education and Admissions to the Bar, American Bar Association, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, Legal Education and Professional Development—An Educational Continuum (Chicago, 1992).

11. For a defense and amplification of this view, see Michael J. Kelly, Afterword, Why Deans Stay, 51 Md. L. Rev. 483, 491–93.

The dean is also best placed, if not always best suited, to view the larger scene and represent the interests of his institution to the outside world and vice versa. For instance, it is often the dean who perceives the potential linkages between faculty interests and the interests and activities of alumni and potential donors. One can quibble about whether this function could be passed on to someone else. But the fact remains that the dean, by virtue of his oversight of the entire law school enterprise and his frequent contact with leading figures in important external settings, has a unique opportunity to affect external perceptions of the school. He is also uniquely placed to bear witness to the faculty and to other interested internal constituencies on threats and opportunities for the school that exist in the larger world.

The dean can and should work with others in the law school to communicate with external audiences in appropriate circumstances. But in the end it is the dean who is designated to speak for the institution. It is the dean, individual traits aside, who commands the maximum respect from external audiences. It is the dean who is responsible for seeing that the school reaches its advancement potential. The dean is the official envoy, and often no other will do.[12]

How Is the Law School Led and Managed?

The law school deanship is comparable to the presidency of a small independent college.[13] It differs from other university deanships because law schools are more self-contained, more vertically integrated. A law school usually handles its own recruiting, admissions, registration, student affairs, discipline, placement, and alumni affairs. The law library is under the dean's administrative authority. And, unlike other colleges, law schools do not have formal department heads. The dean is directly answerable to and responsible for the faculty and its committees. This being so, the law dean could easily spend all of his workday tending to the school's bureaucratic details and to developing the school's strategy for improvement.[14] Many, perhaps most, law deans still spend most of their time writing memoranda, taking part in law school or university meetings, making budget decisions, dealing with correspondence, and so forth.

How then are law schools with rainmaker deans led and managed? Ideally, their oversight involves a strong team concept. The dean could simply delegate the running of the school to an associate or vice dean. But that sort of abdication of responsibility would undermine the dean's credibility and ultimately damage the school. To be fully effective the dean must remain engaged with the school's day-to-day life. Fortunately, modern communications such as e-mail and mobile phones create opportunities for flexibility in the

12. I borrow the term from O'Connell & O'Connell, *supra* note 1.

13. This is an often-made observation; see, e.g., *id.* at 605.It should not be extended too far. Law deans, like other deans, are answerable to provosts and presidents. A law dean who crosses swords too often with her president is soon a former law dean.

14. For a description of a typical day in the life of a law dean, see Jane Easter Bahls, Revolving Door Deanships, Student Lawyer, Mar. 2000, at 30, 34.

way one directs an office. Still, it must be recognized that the dean will not be Johnny-on-the spot every time a problem arises or a decision must be made. The rainmaker is often away from the law school. Even when he is in the building, he may well be occupied with external relations or with broad policy issues. In such circumstances, the position of vice dean or associate dean for academic affairs may come to resemble that of a university provost. The vice dean, working in conjunction with directors and other staff, will function not only as a central decision-maker but often as the dean's alter ego. Naturally, in such circumstances a premium is placed upon communication, collegiality, and shared vision between the dean and his staff colleagues and between those persons and the students and faculty.

I do not believe that many law schools have fully shifted to the rainmaker model yet. Instead most deans are caught between models. These hybrid deans often lack the staff to delegate as heavily as a rainmaker must. Yet, like the rainmaker, they must attend to the external audiences who demand an increasing portion of their time. The hybrid dean lives in an ambiguous world of exorbitant expectations.

One of the real advantages of the rainmaker model is that it emphasizes the dean's obligation and opportunity to lead rather than simply manage the school. The rainmaker dean is in frequent contact with the forces external to the law school that are shaping its future. Moreover, the rainmaker is unhampered by some of the routine management chores that often consume the traditional dean, and she has both the perspective and the freedom to help the school strategize for the future. In times of rapid change, this is a particularly valuable asset. Moreover, rainmaking can be profoundly aspirational. The rainmaker dean is seeking to engage outsiders to support the school by appealing to their creative and idealistic impulses, by communicating a vision for positive and often profound change.

The best dean in the future, as in the past, will possess a vision that embodies long-standing principles and ideals. But her vision must be well informed. Though aspirational, it must be based on reality. In my view, the rainmaker law dean offers the possibility of thoughtful, even inspired leadership because of the perspective the rainmaker has of the law school. We live in an era of great change, driven largely by the forces of globalization and technology. The law school that fails to pay attention to those changes may find itself uncompetitive or out of business. The rainmaker dean is one mechanism for keeping up with changes in the world around us and for addressing the threats and opportunities that they present. The inspired rainmaker is a force for proactive growth and change. In some cases she can provide what John Sexton has described as "transformational leadership." For such a dean "the notion of fundraising becomes transformed to concrete ratification (and energizing) of the institutional dream, not an enervating chore . . . ."[15]

15. Letter from John Sexton to John A. Miller, Mar. 20, 2000 (on file with author).

What Does It Mean for Others?

What are the implications of this change in the role of the law dean for those who depend upon him for service of one form or another? The answer will vary from school to school and from constituency to constituency. Below I paint with a broad brush some possibilities.

The University Leadership

University presidents have been rainmakers and public envoys for quite some time. They know the territory. I expect that as a group they will accept and even encourage the law dean to embrace the role of rainmaker.[16] But it is not clear that universities are ready to accept a reduction in the dean's administrative service to accommodate the dean's enlarged external role. Indeed, the truth may be quite to the contrary. Anecdotally at least, I have the impression that university demands on decanal time have been increasing over the years. These demands are not only time consuming but also strength sapping.[17]

The dean is the key intermediary between the central administration and the professoriat. When tensions between these two forces occur, the dean is the one who is caught in the middle and must respond. Many universities also depend on the deans for strategic planning, policy making, and related matters such as service on university committees and searches. This is unlikely to change dramatically. Instead, the dean will have to find ways to economize on her efforts for the university, for example by sending representatives to meetings and having staff draw up memoranda. This raises the specter of increased staffing for the dean's support. Since top-heavy administration is often a concern of governing boards, legislatures, and faculties, it will take courage and political skill for presidents and deans to bring about appropriate changes in the administrative structure of the dean's office.

The Faculty

The relationship between dean and faculty is crucial and delicate. There are tensions inherent in it since the dean serves as advocate for the faculty and also as supervisor.[18] The dean should be, and usually is, a colleague. Moreover, the faculty and its committees share authority with the dean on many key issues such as hiring and curriculum. Yet deans and faculties live in different worlds,

16. Some university presidents may resent or resist the rise of the rainmaker law dean for fear of having their own prestige, authority, or rainmaking undermined. I believe that such presidents are in the minority, but not everyone would agree. One could point to a number of recent firings as expressions of presidential jealousy toward successful rainmaker law deans. Still, I believe most universities recognize that despite the potential for conflict over who asks whom for what and who gets the credit, there are plenty of rainmaking opportunities to go around. The more the merrier.

17. In a survey ten years ago of law deans, dealing with the university hierarchy was considered the dean's most frustrating task after dealing with faculty. Kelly, *supra* note 11, at 498. The survey was conducted by Francis X. Beytagh and was published as an appendix to Kelly's article.

18. In the survey alluded to earlier, law deans said that dealing with faculty represented the most challenging and potentially frustrating aspect of the job. See *id.* at 498–99.

and the gulf may be widening. It is not clear to me that law faculties, taken as a whole, yet appreciate the changes that are in the air for law schools and for law deanships. Faculty are largely insulated from the financial and political pressures that have begun to squeeze the law schools. They may appreciate that the library is not as well furnished with new books as in past years. They know that part of their salary comes from an endowment. They are aware that the new wing on the building was paid for by a major gift from a graduate of the school. But I doubt that most faculty appreciate how much time and personal attention it can take to get a potential donor to yes. Nor do I believe that most faculty are aware of the effort that can go into maintaining good relations with the alumni, the bar, the judiciary, governing boards, and, in the case of state schools, the legislature. Faculty may balk at the notion that the dean should spend fifty to seventy-five percent of his time on external relations.

The rainmaker less resembles a law professor than does the traditional dean. Instead, the rainmaker may seem more like the chief executive officer of a business, and the rise of the rainmaker may be seen as a threat to the present balance of power between deans and faculties. I do not believe such a perception is valid. The rainmaker is merely the instrument by which the school and, by extension, its faculty realize their potential. Like that of any dean, the rainmaker's purpose is to serve the school. But the perception of threat is more than possible. This is particularly true if the rainmaker comes to the school from outside academia.

How can a rainmaker dean create and maintain cordial working relations with faculty? There are several avenues. The first is to see that the faculty enjoy a good environment in which to teach and do their other work: then the faculty should see the dean's rainmaker role as furthering the overall mission of the school. Second, it is important to have lines of communication open to faculty even when the dean is away or occupied. An associate dean who is well regarded and trusted by both the dean and the faculty can facilitate communication. E-mail is also helpful. Even so, good relations between the dean and the faculty usually depend on some degree of personal contact.[19] This is so because it is also vital that the dean and faculty have a shared vision for the school.

The faculty should—by and large—understand and agree with the vision that the dean is conveying abroad. In short, there must be trust. Trust is not easily established in the absence of regular contact, but sometimes the external role of the dean directly connects with faculty concerns. For example, faculty occasionally become involved in controversial cases. The same is true for law school clinics.[20] When this happens, the dean is usually the point of

19. Doubtless there are also times when absence makes the heart grow fonder.

20. A recent notorious example was the restriction placed on law clinics in Louisiana by the state supreme court in response to a Tulane Law School clinic's bringing of an environmental racism lawsuit. See Terry Carter, One Chief Justice's Political Gumbo: Add Big Business, Mix in Law School Clinics to Make Re-election Bid Brouhaha, A.B.A. J., Dec. 1998, at 26. Like most deans, I have fielded complaints about professorial consulting or clinic involvement in controversial cases. On more than one occasion our college has been faced with hostile legislative attention as a result of consulting or clinic activities. I can personally attest to the value of good external relations in meeting these attentions.

contact for those persons who are inclined to disapprove of the faculty member or the clinic. The rainmaker, by virtue of his strong external connections, is well positioned to defend the academic freedom of persons and programs. Deans who successfully protect the integrity of the law school's mission obviously stand to gain the trust of the faculty.

Even the dean who travels a great deal must maintain some minimal level of visibility within the faculty if she is to keep its trust. As an example, the dean needs to attend the large majority of faculty meetings. She needs to spend time with the chairs of major committees as those bodies do their work. It is also congruent with her role as rainmaker to be present at most public events such as endowed lectures and moot court competitions.

Since faculty often play a role in external relations, the dean and members of the faculty may work together or at least share common understandings and experiences. But the dean will often need to be the initiator in a process that brings her together with faculty. For example, she may need to invite a particular faculty member to a lunch with a development prospect who is acquainted with him or who has some interest in common with him. The development director can play a key role in fostering such interconnections.

The main points are that the rainmaker dean must have a conscious strategy for connecting with the faculty, and that the faculty need to see the dean as one whose vision for the school is consistent with their own. A secondary point is that the faculty must be convinced that the dean's commitment of time to rainmaking is appropriate. Proof of this second point is in the results obtained and in the continued efficient functioning of the law school.

The Students

I suspect that relatively few law deans regularly teach a substantial load any more.[21] For most deans there simply isn't time. For this reason, it is possible that students will feel little direct impact from the rainmaker dean's changed role. Indeed, the rainmaker dean may be more visible to the students than the hybrid dean, since successful external efforts often involve students. For example, take the external relations tool often called the Dean's Roundtable: a prominent person, usually a graduate and often a development prospect, is invited to the school for lunch with the dean and a dozen or so students. The dean serves as host and facilitator, and the prominent person has the opportunity to share something about her life. The casual and cordial gathering creates goodwill among the participants. Though the guest is the focus of attention, it is a natural consequence that the dean and students also achieve a certain collegial connection. Another student-inclusive event is the mixer, usually held for an hour or so around midday in the law school lobby. Students and faculty are invited to gather for food and informal conversation. Some-

21. As a caveat I might add, however, that teaching can lend credibility to one's role as a rainmaker, and some deans draw important emotional sustenance from teaching. So I would not rule out a mix of rainmaking and teaching.

I have found that decanal travel is a major barrier to teaching. But my school is in a remote rural location, and deans of more urban law schools may not find travel much of a problem.

times mixers coincide with class reunions or visits of dignitaries such as advisory boards. Again the dean's role is to serve as host. More formal opportunities for the dean to interact with students include first-year orientation, public lectures, student-sponsored events, meetings with student leaders, and, of course, graduation festivities. In short, the rainmaker dean can be quite visible to students and should interact with students at many levels.

The External Constituents

Obviously the external constituents of the law school receive increased attention from the rainmaker dean: a key purpose of the rainmaker model is to increase the visibility and value of the law school in their eyes. The success of the rainmaker is measured, in part, by private gifts, goodwill, and favorable publicity gained for the school and, in the case of public schools, by triumph or failure in the legislative arena. So the rainmaker must move among those persons outside the school who have, or may be induced to have, a helpful interest in its progress and well-being.

Increased contact with external constituents will accomplish nothing, or even do harm, unless the quality of the interaction is good. The rainmaker does not just go about with his hand out. He must convey a vision worth hearing, and convey it in a manner that inspires belief. Otherwise the audience will run for cover. Usually the dean's vision relates to the school and to the service it provides to the community. Fortunately, finding true and worthy things to say about one's law school is not difficult. Education is at the very heart of a democratic society. Despite the low esteem in which the legal profession is held in many quarters, most of legal education's constituents understand that we provide a service that is vital to the future of our country. The quality of our students, faculty, and programs has a direct bearing on the quality of life in the next century. How we convey that message is a matter for individual judgment and will depend on the facts of our particular case. But the key point is that the rainmaker must be a truthful and persuasive advocate for her school in a variety of public and private settings. If she does well, the gifts and the public acclaim for the school will come. If she is successful, alumni and other friends will be drawn closer to the school. In many cases these external constituents develop a personal attachment to the dean—with implications that I discuss in the next section.

The rainmaker is not only a vision bearer to the external constituents. She is also the conduit for their ideas about the future of the school. Besides gifts and goodwill, the rainmaker brings back to the school the opinions of the alumni, the bar, employers, judges, and others about the quality of the educational experience the school is providing. That empowers the external constituents, and the dean and the faculty may at first fear their empowerment. My own experience is that most often the empowerment has positive effects. For example, a few years ago my school formed an advisory board largely composed of past graduates. At the time many of us feared that it would interfere in the school's operations. Today we can say unequivocally that we have benefited from its counsel. We have never found the board disrespectful of the dean's or the faculty's roles in the management of the

enterprise. We can also say that the board members have been drawn closer to the school and their financial support has been critical to some of our successes.

What Does It Mean for the Deans Themselves?

Who Are the Deans?

To frame this part of the discussion, it may be useful to consider some of what we know about the present occupants of our deanships. Fortunately we have available a useful study conducted by three colleagues at Duquesne University.[22] They compared certain key demographic characteristics of deans in 1987 with those same characteristics in 1997. For the most part they found little change over the ten-year span. Among other things, they found that nine-tenths of our law deans are men. Nine-tenths were law professors before becoming dean. Most are middle-aged. They tend to be graduates of top-tier law schools. About a fourth of them have served as dean at some other school before appointment to their present position; this is up from about one-fifth in 1987. They average about five years in office, but that average is misleading since turnover varies significantly between categories of schools.

This last fact is fascinating and sheds new light on the oft-expressed concern over the short terms of deans. It appears that the mean terms are not as short as has been suggested.[23] The study shows, however, that there is a significantly higher rate of turnover in the lower-tier schools. We can speculate on this phenomenon, but since we do not know how many of the deans who step down do so voluntarily, it is difficult to know where our speculations should begin. Did he fall or was he pushed? My anecdotal impression is that many short deanships result from pressure to resign from one of two sources, the university president or the law faculty.[24] But rarely does one hear of a dean's being fired outright. Usually the exit is arranged to appear amicable even when it is not. So it is difficult to estimate the number of deans who leave office involuntarily and to know what sort of conflicts led to their departure.

Short deanships do not appear to be the result of deanship shopping, since most deans who step down return to the faculty.[25] I have heard more than one seasoned dean suggest that the main reason for short deanships is that many people who become deans soon find they are not suited to the job. Such persons, it is suggested, hold on just long enough to exit gracefully. Even if this is true, what does it tell us about the deanship? My take is that short deanships that end voluntarily do so primarily because deanship suffers so much in comparison to professorship, the position which is its immediate alternative.

22. Jagdeep S. Bhandari et al., Who Are These People? An Empirical Profile of the Nation's Law School Deans, 48 J. Legal Educ. 329 (1998).

23. The conventional wisdom is that law deanships average less than four years. See *id.* at 344 and sources cited therein.

24. It has been reported that seven law deans were forced out of office by their presidents in 1997–98 alone. Bahls, *supra* note 14, at 40. I have personal knowledge of at least one dean not on that list who was also forced out by his president in that year.

25. Bhandari et al., *supra* note 22, at 363.

The professorship is a position of great independence, prestige, and comfort. By comparison to professors, deans are harried and careworn. I think that people who voluntarily quit the deanship early simply decide that they would rather be professors.

The median length of a deanship in the so-called elite law schools is seven years, about forty percent longer than the national average.[26] Why elite schools retain their deans longer is also a matter for speculation. Probably greater staff support better insulates deans at such schools from some of the more unpleasant aspects of the job. And I imagine that greater prestige and compensation have something to do with it. But I guess, and this is only a guess, that it also has to do with the higher level of satisfaction with the status quo that elite institutions presumably enjoy. On the other hand, a dean at one of the elite schools has suggested to me that deans at these schools stay longer because they have more opportunities to promote positive change rather than merely running to stay in place.

Could it be that the elite schools know more about picking deans than the rest of us? One thing that we can say with some assurance is that longer deanships are advantageous from a rainmaking perspective. Rainmaking depends on relationships, and relationships take time. Since the elite schools have been in the rainmaking business longer than anyone else, one might expect them to have a particular understanding of the importance of continuity in the deanship.

One may also speculate on whether being a rainmaker is more fun than being an internally focused dean, so that rainmakers enjoy the job more and last longer. Many deans will tell you that their alumni travels, work with the bar, and cultivation of donors are the most positive aspects of their deanships. The rainmaking dean is surrounded by people who think well of the school and its role in society. These people often have great memories, rose-tinted by the passage of time, of their own law school days. Most deans come away from their rainmaking experiences feeling quite upbeat about the school's mission and future.

The bare facts I've set out and my speculations about them do not tell us much about who the deans are on an emotional or gut level. But it is just there that the rainmaker dean may differ from the traditional dean. It is interesting to consider the probable personality profile of the rainmaker dean.

Who Is the Rainmaker Dean?

The rainmaker is an energetic person with some appealing personality traits. She is a respectable public speaker. She is willing to travel and meet lots of people. She is willing to ask for money. She believes in her school and has a vision for the school's future that is fed by her rainmaking activities. She is a team player who is willing to surrender some of the reins of power to her associates while retaining a key oversight role. She has the substantial psychic and physical hardihood to interact with a wide range of people for extended stretches of time. She cares enough about her school to see the attendant wear

26. *Id.* at 345.

and tear on her body and soul as worthwhile. She is interested in listening patiently to other people's stories and can tell some stories of her own. She has the judgment to know when to put rainmaking aside for the other decanal tasks.

It is an interesting question whether such people exist in sufficient numbers in the primary recruitment pool of law deans, the professoriat. If that pool cannot provide an adequate supply of rainmakers, we may have to enlarge the pool. In any event, I believe that successful rainmaker law deans will be in high demand in the coming years. This has implications for everyone connected to the recruitment and hiring of law deans, and for the deans themselves.

How Does the Rise of the Rainmaker Change Our Views of Deans and the Deanship?

There is a significant difference in the way we perceive the deanship once we accept the idea that the dominant role is rainmaking. Traits such as charisma and personal warmth take on greater importance than we might otherwise accord them. Outside connections may become more important than traditional academic achievements.[27] Physical appearance or "presence" may become more important as well. And past indiscretions or, conversely, a reputation for personal rectitude may become more important concerns. In short, we are compelled to see the dean as a public figure.

Though the rainmaker dean, like the traditional dean, is properly judged by the quality of her leadership, we tend to measure that quality in different ways than in the past. The ability to develop and articulate a vision for the school becomes vital because of the vision-bearer role. The ability to hire and inspire good associates is a crucial measure since the detailed execution of the dean's internal obligations falls to those persons. We tend to measure the rainmaker's success or failure by reference to dollars raised. This, in turn, creates for new deans as well as old ones a new set of expectations and demands. For instance, the new dean may come into office with the announced expectation that within three or four years annual giving will double. If he doesn't meet the goal, his job may be on the line.

In such an environment finding ways to persuade a successful rainmaker to stay longer or to woo one away from another school is important. In the future, successful rainmakers will command huge salaries by present-day standards. This only makes sense. The dollar return on successful rainmaking is enormous relative to the costs. For example, the NYU law school, whose dean, John Sexton, is a rainmaker par excellence, raised over $175 million in private gifts from 1993 to 1998.[28] If NYU is typical of other schools, the costs to achieve that success were less than five percent. If a dean can raise $5,000,000 a year, why shouldn't he be paid $250,000? If he can raise $10,000,000, why

27. As a counterpoint I should note that traditional academic achievements such as publications, teaching awards, judicial clerkships, law review positions, and degrees from elite schools are all assets from the standpoint of internal and external credibility.

28. Steven Englund, Seizing the Mile, NYU Law School Magazine, Fall 1999, at 6 (reprinted from Lifestyles, Spring 1999).

shouldn't he be paid $500,000? I think the day is not far off when we will see million-dollar deans.[29] If I am right about this, one cannot help but wonder what the effect will be on faculty morale and public perceptions.

Another difference in the way we view the rainmaker deanship relates to our sense of what the school has invested in its dean. The rainmaker dean is a minor celebrity. She has developed many external relationships for the school and is often seen as emblematic of the school itself. Many wealthy and influential alumni may feel a strong personal bond with her. In such circumstances, a turnover in the deanship may have greater institutional costs than in the past.[30] These external ties and supports also give the dean greater bargaining clout with the central university administration.

The startup costs for new deans are tremendous. Most new deans, especially if they are from the outside, need at least a year to settle into the job. After that it may take two or three more years to establish the momentum for positive institutional change. A stronger emphasis on rainmaking makes startup even more costly. In my opinion a rainmaker is unlikely to hit his stride until he has been four or five years in office. This is a function of the size and diversity of the external audiences and of the amount of time it takes to establish relationships of trust. And once those relationships are formed, they are not necessarily transferable to the dean's successor.

The cost of an unsuccessful deanship may seem greater than in the past since the lack of success of an intended rainmaker is measured in lost dollars rather than in less easily measured currency such as faculty or student satisfaction. Consequently, the risks associated with hiring as dean someone with no prior experience as a rainmaker may also be perceived as greater. That may affect the career path of would-be deans. For example, faculty who aspire to a deanship may feel obliged to direct some of their energies toward rainmaking at the expense of time devoted to other activities. The vice dean's position may become an important training and proving ground for rainmaking. It is also possible that more deans will be hired from among internal candidates who have already established ties to the school's external constituencies.

What Are the Dangers of the Rainmaker Deanship?

The most serious danger in emphasizing rainmaking is that the dean may be perceived as, or even become, a confidence man for his school. Such a cynical view of the deanship has self-evident dire implications both externally and internally since the school's reputation is so closely identified with the reputation of its dean. I assume it is obvious that we wish to hire deans who have the integrity, commitment, and character to perform their duties with dignity, honesty, and conviction. Is the present selection process reasonably calculated to accomplish this? I believe so. Most schools use a system of recruitment and selection that could hardly be more careful and, unfortu-

29. Rumor has it that the current highest-paid law dean gets about $500,000 annually.

30. I recognize that there are tradeoffs here. For example, since the rainmaker dean may have less strong personal ties with faculty colleagues than the traditional dean, to the faculty the rainmaker dean may seem more expendable than the traditional dean.

nately, more Byzantine. Assuming that the decision is made to seek a rainmaker, all that is needed is some shift in weighting of the selection criteria in favor of a greater emphasis on people skills, energy, managerial expertise, and, of course, willingness to rainmake. Integrity and honesty should remain key qualities.

The real price of the rainmaker model is not in the selection costs but in the added structure and personnel required for the dean's office. Thus a second danger of the rainmaker deanship is that internal management of the law school will suffer because the school tries to do it on the cheap. A dean cannot just wake up one morning and say, "From this day forward, I will be a rainmaker." She must first create a management structure that leaves no vacuums of authority and responsibility. She must train herself to lead in a style different from her prior mode, and she must see that her staff get the training and support they need to function in a rainmaking environment.

A third danger of the rainmaker deanship is that the heavy emphasis on marketing may cause the dean and the dean's staff to weigh events in the school with undue concern for how they will be viewed externally. Unquestionably, external relations are a driving policy force for the rainmaker dean. Image consciousness is crucial. Rainmaking may tend to encourage conservatism and timidity and an inclination to sweep problems under the rug.[31] The safeguard here is to select deans and staff who believe it is important to make principled decisions even when adverse publicity may result. There is no magic formula for doing this, but the collective judgment of search committees, university presidents, and the screening audiences that prospective deans must face are reasonably reliable.

A fourth danger is that the rainmaker dean may become disconnected from the life of the school. He may cease to understand the institution he has agreed to serve. As I have described the model, this should not happen. The dean should interact regularly with colleagues and students within the school. But one can imagine the dean who becomes fixated on rainmaking for rainmaking's sake and falls into an endless round of trips and expensive dinners with donors. The dean could become obsessed with the fundraising numbers or with the celebrity, minor though it may be, that comes with the deanship. One cannot fully guard against such a possibility or cure it if it occurs. But what do we do with any dean who loses touch with the school? What do we do with any dean who for one reason or another becomes ineffective? We move him out. The dean is a transitory figure. His time on center stage is usually brief.

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Each law dean travels a different path and bears different burdens. Each school has unique needs, challenges, and opportunities for the dean to address. But even so, the rise of the rainmaker model will touch every school and every dean. A dean who prefers a more internal focus may succeed in

31. It has been suggested that interest in fundraising may bias a dean in certain student disciplinary proceedings. Note, 96 Yale L.J. 2132, 2143–44 (1987).

special circumstances, but by and large the outward-looking dean is the model for the foreseeable future.

The rise of the rainmaker may strike some as a cynical and opportunistic response to developments in the world around us. These persons may fear that rainmaker law deans will contribute to the corruption of the moral climate within the legal education community. To others the rise of the rainmaker may seem a rational response to current market conditions. To this second group the rainmaker simply represents a sensible change in the dean's job description. I believe that the fears of the first group are well grounded but that the pragmatism of the second group must carry the day. The challenge then is to design a rainmaker model that fosters our communal belief in public service in a manner worthy of the public trust. I hope that this essay contributes to that process of design.

Sound leadership of legal education has always involved careful regard for the tension within any law school between insularity and social connectedness. The point of balance between those two forces shifts with the economic realities and the political currents of the times. The law dean must always seek to know that point of balance for her time and her place. For the foreseeable future the point of balance rests in favor of openness and outreach.