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Law Graduate Employment in Utah by the Numbers

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LAW GRADUATE EMPLOYMENT IN UTAH BY THE NUMBERS

Jess Hofberger*

Abstract

This Article surveys the employment, debt, and wage data available for law school graduates in Utah. Further, this Article recommends adjustments to current ABA employment survey information that will paint a more comprehensive picture of law graduate employment.

I. INTRODUCTION

The employment side of the “Twin Crises in the Law” has two components: employment and wages. Obviously, those who are unemployed also suffer greatly in the wage department, but this Article will discuss these two issues separately. This Article defines employment, reviews employment and debt statistics, and concludes with recommendations to fill in missing information for better future analysis of this issue. This Article reviews data from a rigorous survey of every individual in the University of Utah S.J. Quinney College of Law School (“S.J. Quinney”) and Brigham Young University J. Reuben Clark Law School (“J. Reuben Clark”) who graduated in 2012; the survey was taken nine months after graduation.

II. HOW TO DEFINE “EMPLOYED”

Employment is, at first blush, a straightforward question: do you have a job or not? But things get complicated quickly. The American Bar Association (“ABA”) considers “employed” to mean “the graduate has a position in which he or she receives remuneration for work performed. A volunteer position, from which the graduate does not receive remuneration, even if the position might ultimately lead to a remunerated position, is not considered to be employment.”¹ So far, things are straightforward enough. When a qualitative aspect of employment is implied, defining employed gets dicey. Consider the case of *MacDonald v. Thomas M.*

* © 2014, Jess Hofberger. All rights reserved. Director of Career Development at the University of Utah, S.J. Quinney College of Law.

¹ SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AM. BAR. ASS’N, 2013 EMPLOYMENT QUESTIONNAIRE (FOR 2012 GRADUATES): INFORMATION & DEFINITIONS (2013), *available at* http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/august_2013_open_session/2013_employment_questionnaire.authcheckdam.pdf, *archived at* <http://perma.cc/93TT-AHXA> [hereinafter 2013 EMPLOYMENT QUESTIONNAIRE].

Cooley Law School,² in which twelve graduates of the Thomas M. Cooley Law School sued their alma mater, alleging that the school disseminated false employment statistics which misled them into deciding to attend Cooley.³ The graduates claimed to have relied on Cooley's published employment statistics as assurances that they would obtain full-time *attorney* jobs after graduating.⁴ The court held that Cooley used the term "employed" in the usual English-language manner (also consistent with the ABA definition in use at that time), meaning employment in *any* job—not necessarily as an attorney.⁵ The Sixth Circuit held that the law school never promised the employment statistics presented were limited to the legal profession.⁶ So in this case, the law school escaped by virtue of the ambiguity inherent in the term "employed." Nonetheless, in reaction to this suit and others, as well as the considerable pressure asserted by social media—such as the website *Law School Transparency*⁷—the ABA broke the general term "employed" into more specific categories.⁸ The most important of these are defined as follows:

- 1) Employed—Bar Passage Required. A position in this category requires the graduate to pass a bar exam and to be licensed to practice law in one or more jurisdictions. . . . Judicial clerkships are also included in this category.
- 2) Employed—J.D. Advantage. A position in this category is one for which the employer sought an individual with a J.D., and perhaps even required a J.D., or for which the J.D. provided a demonstrable advantage in obtaining or performing the job, but which does not itself require bar passage or an active law license or involve practicing law. Examples of

² 724 F.3d 654 (6th Cir. 2013).

³ *Id.* at 657. The decision to enroll in law school is no small decision; Cooley charges full-time students tuition of \$36,750 per year. *Id.* With room, board, and living expenses, the total cost to attend Cooley Law is estimated to be \$52,000 per year. *Id.*

⁴ *Id.* (emphasis added).

⁵ *See id.* at 662–63.

⁶ *See id.*

⁷ LAW SCHOOL TRANSPARENCY, <http://www.lawschooltransparency.com>, archived at <http://perma.cc/7AWY-BS98> (last visited Sept. 18, 2014).

⁸ The ABA requires accredited law schools to collect and publish employment data. See Sam Favate, *ABA Makes Changes to Data Collection of Law School Graduates' Jobs*, WALL ST. J. (Dec. 6, 2011, 11:37 AM), <http://blogs.wsj.com/law/2011/12/06/aba-makes-changes-to-data-collection-of-law-school-graduates-jobs/>, archived at <http://perma.cc/P5TX-3HLW>; DUFF & PHELPS, AM. BAR. ASS'N, PROTOCOL FOR REVIEWING LAW GRADUATE EMPLOYMENT DATA, AND STATEMENT OF PROCEDURES FOR COLLECTING, MAINTAINING AND REPORTING LAW GRADUATE EMPLOYMENT DATA—DRAFT (Nov. 8, 2013), available at http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/december_2013_council_open_session/2013_11_8_duff_phelps_draft_protocol.authcheckdam.pdf, archived at <http://perma.cc/3ZX9-HV53>.

positions for which a J.D. is an advantage include a corporate contracts administrator, alternative dispute resolution specialist, government regulatory analyst, FBI agent, and accountant.

3) Employed—Professional Position. A position in this category is one that requires professional skills or training but for which a J.D. is neither required nor a demonstrable advantage. Examples of persons in this category include a math or science teacher, business manager, or performing arts specialist.

4) Employed—Non-Professional Position. A position in this category is one that does not require any special professional skills or training.

5) Employed—Job Category Undeterminable. The graduate is employed, but there is insufficient information available to determine into which of the above categories the position should be placed.

6) Pursuing Graduate Degree Full-Time. The graduate is pursuing further graduate education

7) Unemployed—Start Date Deferred. The graduate has accepted a written [sic] offer of employment by the February 15th reporting date, but the start date of the employment is subsequent to February 15th.

8) Unemployed—Not Seeking. [T]he [sic] graduate is “not seeking” employment outside the home and is not employed. Graduates who are not seeking employment because of health, family, religious, or personal reasons are included. A graduate who is performing volunteer work and is not seeking employment is included.

9) Unemployed—Seeking: [T]he graduate is “seeking” employment but is not employed. A graduate who is performing volunteer work and is seeking employment is included.

10) Employment Status Unknown. The law school does not have information from or about the graduate upon which it can determine the graduate’s employment status.⁹

III. ANALYSIS OF THE S.J. QUINNEY AND J. REUBEN CLARK LAW SCHOOL CLASSES OF 2012

With these categories in mind, we can see how the S.J. Quinney and J. Reuben Clark classes of 2012 are doing nine months after graduation.¹⁰ Even a quick perusal of the numbers strikes the reader with an interesting, but perhaps not

⁹ 2013 EMPLOYMENT QUESTIONNAIRE, *supra* note 1.

¹⁰ Compare UNIVERSITY OF UTAH, EMPLOYMENT SUMMARY FOR 2012 1 GRADUATES (2013) available at <https://dl.dropboxusercontent.com/u/1724754/ABA%20Employment%20Summary%202012.pdf>, archived at <http://perma.cc/MW6C-WEAX> [hereinafter U OF U EMPLOYMENT], with BRIGHAM YOUNG UNIVERSITY EMPLOYMENT SUMMARY FOR 2012 GRADUATES 1 (2013), available at http://www.law2.byu.edu/page/categories/careers/documents/info_stats/ABA%20EmploymentSummary-2012b.pdf, archived at <http://perma.cc/N4UU-XVZ6> [hereinafter BYU EMPLOYMENT].

surprising, realization: S.J. Quinney and J. Reuben Clark have remarkably similar employment outcomes.

A. Employment Statistics Nine Months After Graduation

The following chart shows the employment data for 2012 graduates of S.J. Quinney and J. Reuben Clark nine months after graduation.

Nine-Month Employment Data for 2012 Graduates of Utah Law Schools			
School	J. Reuben Clark	S.J. Quinney	Average
Bar Passage Required	72.79%	73.13%	72.96%
J.D. Advantage	16.33%	11.19%	13.76%
Professional	1.36%	2.99%	2.18%
Non-Professional	0.00%	0.75%	0.38%
Employed-Undeterminable	0.00%	0.00%	0.00%
Pursuing Graduate Degree	0.68%	1.49%	1.09%
Unemployed- Start Deferred	0.00%	0.00%	0.00%
Unemployed—Not Seeking	4.08%	2.24%	3.16%
Unemployed—Seeking ¹¹	4.76%	5.97%	5.37%
Employment Status Unknown	0.00%	2.24%	1.12%

Presumably, these statistics are a function of the similar size and rating of the schools and the fact that they serve nearly overlapping legal markets. On the other hand, a truly surprising statistic (given the drumbeat of doom and gloom on the topic of legal employment) is that for Utah Schools, 86.72% of graduates were employed in the legal field (not necessarily practicing law) within nine months of graduation.¹² That could be better, but given the realities of the bar exam and vagaries of life in general, it is not awful. Further, graduates who are working as non-legal professionals (e.g., accountants, teachers, dentists) make up 2.18% of the

¹¹ The total difference in employment between the two schools tightens even further if the eight BYU and one U of U graduates who were hired by the law school itself are counted. See U OF U EMPLOYMENT, *supra* note 10, at 1; BYU EMPLOYMENT, *supra* note 10, at 1.

¹² Employed in legal field was calculated by adding Bar Passage Required and J.D. Advantage.

remainder. This leaves an area of extreme concern regarding the 8.53% of graduates who are unemployed nine months after graduation.¹³

Superficially, it appears that the market is saturated with entry-level attorneys, but perhaps not flooded. The idea of a rough balance between the new lawyer supply and demand is strained when one realizes that many (typically clever and motivated) law students recognize this situation and leave the practice of law before beginning. This is not an objectively good or bad development, but it is noteworthy. Twenty-six J. Reuben Clark graduates (18%) and eighteen S.J. Quinney graduates (13%) went to work for the ABA category “business and industry” immediately following law school.¹⁴ In many ways, a law degree is an excellent education for a career in business, but a business education is not the chief purpose of a law school, nor have law schools focused on such a career path.

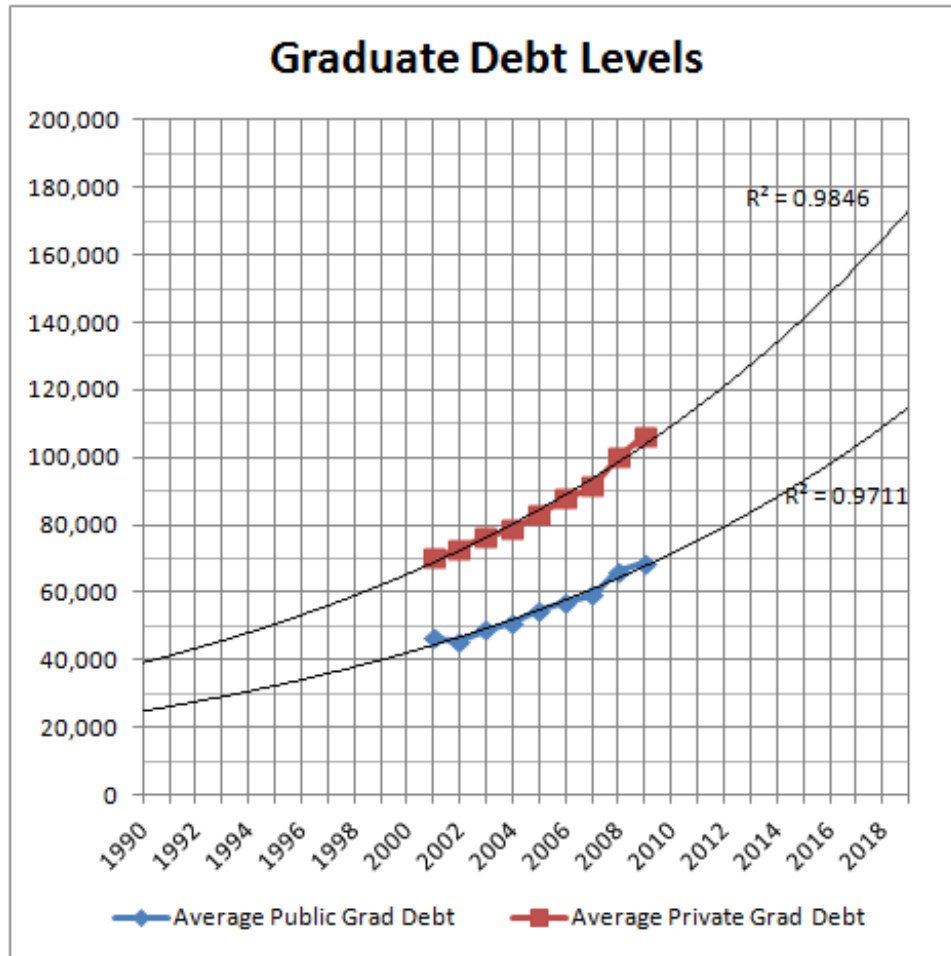
B. Law School Graduates Debt Load

Binary employment statistics do not tell the whole story. Perhaps the more troubling statistic relevant to the practice of law is the rising debt to income ratio. This collision of rising education debt and falling wages is the crisis of the *underemployed* attorney. The following graph depicts the national law student debt crisis:¹⁵

¹³ I have chosen to aggregate “unemployed seeking” and “unemployed not seeking” because there is substantial interplay between the perceived availability of jobs and the “not seeking” category—but it is difficult to say how much. Certainly, many in the “unemployed not seeking” category—4.08% of J. Reuben Clark and 2.24% of S.J. Quinney graduates—have chosen to remain outside of the workforce for personal reasons. See 2013 EMPLOYMENT QUESTIONNAIRE, *supra* note 1 (defining “unemployed—not seeking” as “[g]raduates who are not seeking employment for health, family, religious, or personal reasons”).

¹⁴ U OF U EMPLOYMENT, *supra* note 10, at 1; BYU EMPLOYMENT, *supra* note 10, at 1.

¹⁵ Matt Leichter, *The Law School Debt Bubble: \$53 Billion in New Law School Debt by 2020*, THE LAW SCHOOL TUITION BUBBLE (Oct. 17, 2011), <http://lawschooltuitionbubble.wordpress.com/2011/10/17/the-law-school-debt-bubble-53-billion-in-new-law-school-debt-by-2020>, archived at <http://perma.cc/4GRK-J4YL>.



The average 2012 S.J. Quinney graduate has \$80,608 of law school debt.¹⁶ Annual tuition at S.J. Quinney is \$23,489 for Utah residents and \$44,635 for nonresidents.¹⁷ The cost of living for S.J. Quinney students living off-campus is estimated at \$20,014.¹⁸ For comparison, tuition at J. Reuben Clark is currently an

¹⁶ S.J. QUINNEY COLLEGE OF LAW, FACTS AT A GLANCE (2013), available at <http://www.law.utah.edu/wp-content/uploads/2013-2014-Facts-at-a-Glance.pdf>, archived at <http://perma.cc/T7YV-XU65>. J. Reuben Clark graduate debt for 2012 is not published, but the average 2011 BYU graduate has \$54,766 of law school debt. Paul Caron, *Law School Rankings by Debt Load Per Graduating Student*, TAXPROF BLOG (Mar. 23, 2012), http://taxprof.typepad.com/taxprof_blog/2012/03/law-schools-rankings.html, archived at <http://perma.cc/6SF4-S7G9>.

¹⁷ UNIVERSITY OF UTAH – STANDARD 509 INFORMATION REPORT 1 (2013), available at <http://www.law.utah.edu/wp-content/uploads/ABA-Standard-509-Consumer-Information-2013.pdf>, archived at <http://perma.cc/9SQM-WT66>.

¹⁸ *Id.*

annual \$11,280 for members of the Church of Jesus Christ of Latter Day Saints and \$22,560 for nonmembers; the cost of living is estimated at \$20,072.00 per year.¹⁹

For an average S.J. Quinney graduate, \$80,608 of debt equates to a monthly student loan payment of \$525.50 for thirty years—\$6,306 each year—or \$927.64 monthly for a ten year repayment—\$11,131 annually.²⁰ In addition, one should include any undergraduate or other educational debt. With \$100,000 of total student loans, for example, a typical Utah graduate will pay \$651.93 each month—\$7,823.16 annually—in debt repayment for thirty years or \$1,150.80 each month—\$13,809.60 annually—for ten years.²¹ These amounts must be kept in mind while considering the following wage data.

C. *Where Law School Graduates Work and How Much They Make*

The growing cadre of employed but low-earning attorneys obscures the true magnitude of the employment-wage crisis among attorneys. Low-earning attorneys include those working in part-time positions. Nine months after graduation, approximately 9% of graduates in Utah—thirteen graduates from J. Reuben Clark and twelve from S.J. Quinney—were working in part-time positions.²² Perhaps, some of these individuals desired part-time work, but it is likely that a number of them would prefer a full-time position if available.

Another small, but growing, group of attorneys hangs a solo-practice shingle immediately following graduation. The class of 2012 had three J. Reuben Clark and five S.J. Quinney students begin solo practices immediately upon passing the bar.²³ For the most part, the transition from law student to successful solo practitioner takes time and is not likely to be remunerative for a period of years. Reliable income data is difficult to collect and is not available for this group.

There are a large number of graduates—twenty-four from J. Reuben Clark and thirty-eight from Utah—who join small firms with two to ten attorneys.²⁴ These positions can be very low paying or quite lucrative. “It depends” sums up this category of employment. S.J. Quinney 2012 graduates, nine months after graduation working in firms with two to ten attorneys earned the following salaries: the twenty-fifth received \$51,500; the fiftieth percentile received \$60,000;

¹⁹ BRIGHAM YOUNG UNIVERSITY – STANDARD 509 INFORMATION REPORT 1 (2013), available at <http://www.law2.byu.edu/site/files/aba/aba-summary-report.pdf>, archived at <http://perma.cc/EGA4-BY3Q>.

²⁰ Assuming 6.8% interest for either the thirty or ten-year repayment plans.

²¹ Again, assuming 6.8% interest for either repayment plan.

²² BYU EMPLOYMENT, *supra* note 10, at 1; U OF U EMPLOYMENT, *supra* note 10, at 1.

²³ BYU EMPLOYMENT, *supra* note 10, at 1; UTAH EMPLOYMENT, *supra* note 10, at 1. These numbers are probably understated because, nine months from graduation, a certain number of graduates intending to practice solo have not yet passed the bar exam.

²⁴ BYU EMPLOYMENT, *supra* note 10, at 1; UTAH EMPLOYMENT, *supra* note 10, at 1.

and the seventy-fifth percentile received \$76,500.²⁵ J. Reuben Clark had a median income of \$70,000 for this group.²⁶

To muddy this statistical portrait even further, twenty-six J. Reuben Clark graduates and eighteen S.J. Quinney graduates went to work for the category “business and industry” perhaps some of these positions were in the legal department, but presumably, many were not.²⁷ Salaries for this category of employment are similar to small firms. Nine months after graduation, Utah 2012 graduates working in business earned the following salaries: the twenty-fifth percentile received \$52,500; the fiftieth percentile received \$61,500; and the seventy-fifth percentile received \$72,500.²⁸ J. Reuben Clark graduates working in business reported the following salaries in 2012: the twenty-fifth percentile received \$45,000; fiftieth percentile received \$60,750; and seventy-fifth percentile received \$74,000.²⁹

Given the abundance of difficult-to-interpret “where do graduates work and what do they make” statistics, a graphical representation helps make sense of the data. By simply charting the self-reported income of every 2012 graduate nine months after graduation, we draw a meaningful wage picture.³⁰

²⁵ UNIVERSITY OF UTAH S.J. QUINNEY COLLEGE OF LAW: CLASS OF 2012 SUMMARY REPORT 3 (2013), available at <http://www.law.utah.edu/wp-content/uploads/2012-Summary-Report.pdf>, archived at <http://perma.cc/W5WX-S7S4> [hereinafter U OF U SUMMARY REPORT]. The University of Utah had twenty-four of thirty-seven students with full time, long term jobs in firms with two to ten attorneys reporting salaries. *Id.*

²⁶ *Employment Stats 2011, 2012 and 2013*, BYU LAW, <http://www.law2.byu.edu/site/career-services/employment-stats-compare>, archived at <http://perma.cc/J59C-P7AV> (last visited Sept. 18, 2014) [hereinafter *BYU Employment Stats*]. BYU had three of twenty-four students with full time, long term jobs in firms with two to ten attorneys reporting salaries. *Id.* Due to a lower number of collected reports (many new attorneys are reluctant to share wage information) only a median could be calculated for BYU in this category. *Id.*

²⁷ See *supra* note 14.

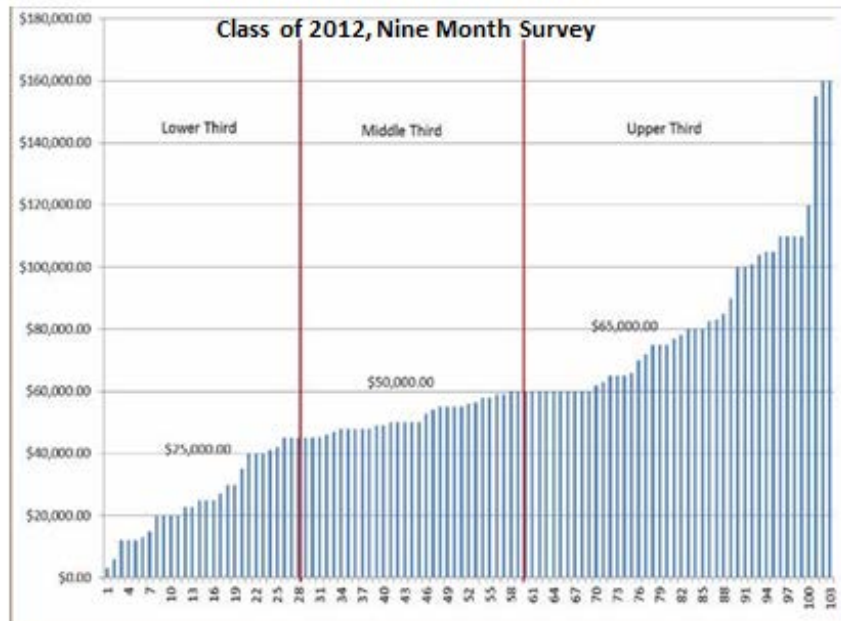
²⁸ U OF U SUMMARY REPORT, *supra* note 25, at 2.

²⁹ *BYU Employment Stats*, *supra* note 26. University of Utah had nineteen students with full time, long-term jobs in firms in business reporting salaries. U of U SUMMARY REPORT, *supra* note 25, at 2. BYU had four of twenty-six students with jobs in business reporting salaries. *BYU Employment Stats*, *supra* note 26.

³⁰ This chart was created using data from the U OF U SUMMARY REPORT, *supra* note 25.



What do S.J. Quinney Graduates Make?



The crisis illustrated by this chart is that 19.4% of Utah students expect to make less than \$40,000 per year in their first full year of employment. Forty thousand dollars a year is not a terrible income, but with the average Utah student debt now at \$80,608, that is an effective wage of \$32,176.80, which does not leave room for many luxuries.³¹ For law schools to continue to attract quality applicants in historical quantities, the effective wage of roughly two-thirds of new attorneys must be increased.

IV. RECOMMENDED CHANGES TO REPORTING

Law schools must constantly seek to better serve the legal community. Improvement in outcomes as measured by wages, job satisfaction, and value to the community can only be brought about when sufficient data is collected to ensure that law school curriculum and enrollment best serves those objectives. To that end, the various organizations which require mandatory law school reporting should consider the following changes:

³¹ \$40,000 income less \$7,823.16 annual student debt expense (assuming \$100,000 in student loans over a ten-year period at 6.8% interest) equals \$32,176.80. *See infra* Section III.B.

1. *Data should be collected independently.* Currently, law schools are required to collect their own data, which can lead to (unintentional) overestimation of positive outcomes. For instance, under the current system, if a recent-graduate solo practitioner states that she hopes to make \$60,000 this year, her income is reported as \$60,000. This is in compliance with ABA guidelines, but a neutral data collector might require a stronger basis for this data.

2. *Graduate participation in surveys should be increased.* In some cases, very few graduates actually respond to the full survey.³² With such small graduating classes at both S.J. Quinney and J. Reuben Clark, a high survey participation rate is essential to get accurate data. Presenting results from this data in percentages and in tables increases the appearance of statistical reliability, but analysis of so little data is statistically dubious.

3. *Collect data until at least eighteen months after graduation.* People often fail the bar exam, change jobs, or develop a practice early in their careers. Thus, the standard nine-month collection point may present an unrealistic picture of the typical career of a new attorney.

4. *Focus on Graduate Satisfaction and Community Value.* The questions required by the various reporting organizations (ABA, NALP, US News) should focus on graduate satisfaction and community value rather than legal employment.

CONCLUSION

There are three forces contributing to the job market prong of the “twin crises”: a moderate shortcoming in entry-level “JD required” and “JD preferred” positions; market conditions depressing wages in small firms and businesses; and high student debt which contributes to the difficulty of new graduates remaining in the middle-class by practicing law. However, the data is incomplete and poorly collected. Stakeholders need more and better data to fully understand and address this issue.

³² See, e.g., *BYU Employment Stats*, *supra* note 26 (noting only four of twenty-six BYU students with jobs in business reported salary information).