

Faculty Publications

---

2012

## Planning for the Next Century or the Next Week, Whichever Comes First

Erik M. Jensen

Case Western University School of Law, emj@case.edu

Follow this and additional works at: [https://scholarlycommons.law.case.edu/faculty\\_publications](https://scholarlycommons.law.case.edu/faculty_publications)

 Part of the [Legal Profession Commons](#)

---

### Repository Citation

Jensen, Erik M., "Planning for the Next Century or the Next Week, Whichever Comes First" (2012). *Faculty Publications*. 72.

[https://scholarlycommons.law.case.edu/faculty\\_publications/72](https://scholarlycommons.law.case.edu/faculty_publications/72)

This Article is brought to you for free and open access by Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Faculty Publications by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.



## Planning for the Next Century or the Next Week, Whichever Comes First

Erik M. Jensen\*

Dean Bagley began the first faculty meeting of the year as our deans always do—“Ladies and Gentlemen”—although there were people present, as there always are, who didn’t fit comfortably in either category. Those folks demonstrated their unladylike and ungentlemanly tendencies by paying no attention when the dean called the meeting to order: “Can we get started? We have a lot on our plates this year. . . .”

“We certainly do, Mr. Dean.” The rude interrupter was Professor Henry Block, our nerdy tax professor (please forgive the redundancy) at Ruloff U. School of Law. Block’s outburst quieted the room, and not because he had put everyone to sleep (as he often does in class). “As I’ve told you over and over, you provide food at so many meetings and workshops that the value of the meals is clearly income to us. The sanctity of the income tax base is at stake. I’ve studied the relevant provisions of the Internal Revenue Code, and I’ve . . . .”

“Yes, yes, Hank.” The dean rolled his eyes. “I understand your position, as well as I can understand anything in tax—remember, I’m just a dean—but free food is essential in the academy. Harvard and Yale aren’t thinking outside the box lunch, but we are. Look at this spread!” The dean waved his hands and, after the loaves and fishes had been blessed, paused for emphasis. “Surely the T-men have something better to do than worry about what we’re eating.”

“The shrimp *are* really good, and I’m going back for seconds,” said Block. “But it’s not *what* we’re eating that the tax guys care about. It’s . . . .”

Dean Bagley cut him off. “Hank please, let me finish my announcement.” Block spluttered as the dean continued: “We’ve been told by President Bosh that all faculties must engage in a major strategic planning initiative this year—‘Preparing for the Next Century’—the

---

\* Schott-van den Eynden Professor of Law, Case Western Reserve University. This is a story, a farce really, about a law school faculty meeting. Any resemblance between the characters and living, breathing human beings is coincidental. The author does believe that folks *similar* to the characters can be found on just about any law faculty in the country, but he is sure that no real law professors—all of whom are models of restraint, precision, and civility—would advance the preposterous positions of his characters.

---

---

project's called. We have to describe in detail what we plan to do for the next hundred years, and we must come up with metrics so that, once we start implementing the plan, we can tell whether we are succeeding, and"—he chuckled at this point—"whether I get to keep my job."

That probably wasn't the right thing to say, in that many in the room would have pushed for clearly unattainable goals if doing so would have speeded up Dean Bagley's departure. Most thought he had overstayed his welcome, and he was only in his third year. His honeymoon had been shorter than Kim Kardashian's.

This was nothing personal, I hasten to add. No one was happy with the idea of a 100-year Bagley deanship, of course, but the feeling would have been the same about any dean. Deans are made to be chewed up and spat out. With all of our deans, we have great expectations.

I will get back to the faculty meeting in a moment, but let me take a short detour to help you understand where this report is coming from. (I'd drop an autobiographical footnote, but the anti-academic editors of this magazine won't let me.) Your not-so-humble reporter, me, is Professor Louis Lauder, the country's foremost expert on cosmetics law. (If you don't believe me, check the ranking of cosmetics programs in *Seventeen*.) I've been giving makeup exams at Ruloff Law for ten years, and I love the dynamics of faculty meetings.

Oh sure, a person who likes faculty meetings sounds like a whacko, even by academic standards, and I can understand how you might be skeptical about my reporting. But while covering up is a useful skill in law school, and I'm expert at it, I've tried to faithfully describe this particular meeting. If you see some blemishes in what I've written, let me know, and I'll squeeze 'em and make 'em pop!

But enough about me.

Dean Bagley went on: "I'm going to put together a set of steering committees, but, in order to structure the committees properly—*Hank, go easy on the shrimp; not everyone has gotten some, and I'm worried about your tax bill!*—I would like your preliminary thoughts about the major issues that we need to address in the strategic plan."

[At that point I heard muttering and some related twittering—not tweeting, *twittering*—from the back of the room, the area where folks are usually reading newspapers during faculty meetings: "Let's do a strategic plan about how to do a strategic plan." I do not think the dean could hear this, but many of the rest of us could.]

As is often the case, Professor G.L. Trotter (pronounced "trah-tay"), one of our ten specialists in international law, was the first to respond to the dean: "I'm sure we can all agree that we should be focusing on globalization. Last week, when I was in Sri Lanka, everyone was talking

about globalization, same thing the week before when I was in Pago Pago. The world is shrinking. The world is flat. The world is . . . .”

[“His oyster, and every Sunday is oyster Sunday,” came the voice from the back of the room. I’ll call the mystery speaker the Mutterer. (Yeah, I know who it was, but I’m trying to protect him. If his identity were known, the dean might put him on the Strategic Planning Executive Committee.)]

The portly Trotter (his given name is Gilbert, but the students call him “Globe”) had obviously lost control of his metaphors, and his voice faded away. At least he had confined his references to planet Earth. Some of us have been waiting for him to announce a new center for the study of extraterrestrial law. He’d be the obvious choice to chair a Strategic Planet Committee.

Trotter quickly regained his composure. He volunteered to draft the strategic plan himself, with the help of several dozen international law students. Dean Bagley thanked Trotter for the offer, but said he wanted to give the appearance of wider participation in the process. So as not to ruffle Trotter’s feathers, however, the dean added, “Gil, whether or not you draft the plan, President Bosh is going to pay special attention to your ideas about the future of the law school—and how to maximize his frequent flier miles.”

By faculty meeting standards, the tone had been civil to that point, but we began regressing to meanness quickly. Several of my “colleagues” questioned the utility of the planning enterprise. One old goat, clearly lacking in vision—I know my libel law, and he therefore shall be unidentified—said, “I’ve been here thirty years, and I can’t remember any important decision that was affected by a strategic plan. If something is worth doing, we should do it, whether or not our strategic plan makes any mention of it. And if an idea is stupid, we shouldn’t carry it out just because it was included in some strategic plan. These aren’t legally binding documents.”

“Besides,” added aged goat number two, an uncivil procedure teacher (also to be unnamed), “the term ‘strategic plan’ is academic—*uh-h, uh-h*—or maybe I should say corporate—gobbledygook. *Uh-h, uh-h* [goat number two had a pronounced Ivy League stutter], hasn’t everyone read Ben Ginsberg’s book about how administrators are taking over colleges? It’s scandalous. ‘Strategic plan’—*uh-h, uh-h*—as opposed to what? A tactical plan? Strategic haphazardness? A non-strategic plan? *Uh-h, uh-h*, why don’t we speak in English?” [The Mutterer: “We’re lawyers.”]

When the dean had first mentioned metrics, I could see smoke (or maybe, given his environmental leanings, it was steam) coming out of Professor Sam Green’s ears. When he finally got the floor, which—at his

insistence—was made of natural substances, he did his Mount St. Helen’s imitation: “I’m never—*ever!*—going to accept a metric system. How can you measure truth? Justice? The American way? How can anyone quantify the quality of academic work?” [The Mutterer: “I can count your articles on one finger.”]

Green finished his diatribe by stressing how the life of the mind was in decline at Ruloff Law, and the dean gently responded, “Sam, this is a law school. Let’s not overdo that life-of-the-mind stuff.”

To some, this strategic planning process seemed like déjà vu all over again. Professor Kelly Kelly thought she remembered some recent, similar efforts, and she was worried about duplication: “Didn’t we just do a plan, last month or whenever?”

“Well, yes. The school did do one not so long ago,” responded the dean. “In 2007-2008, I believe, before I got here. It was called ‘Ruloff in the Next Millennium.’ But that document became useless because the economy tanked. I blame Dubya.”

Once the “hear, hears!” had died down, goat number one suggested that events *always* overtake academic plans: “We used to talk about the planning necessary to downsize the entering class to 250, and now we couldn’t get 250 bodies if we admitted everyone who applied (and, for that matter, lots of folks who didn’t). I have a cartoon on my office wall, from the *Chronicle of Higher Education*, I think, captioned ‘Remember when a good strategic plan lasted all year?’” [The Mutterer: “I don’t.”] Goat number one’s bleating continued: “Strategic plans have a shelf life measured in months. Every time we get a new dean, we have to do a new strategic plan.”

Dean Bagley smiled at that last comment, presumably reassured that, if he could just get his plan in place, he’d have job security for a while.

Even the strongest proponents of doing a strategic plan—I proudly count myself among their number—were concerned about the time and effort required. I know how hard it is to complete my annual current developments report on cosmetics law. It’s *exhausting!* I don’t have much time left to fertilize my hair transplants, much less to think about the future of the law school.

As the goat folks finished their commentary, something or somebody woke up the often morose Professor Gerry Grimm (the “Grimm Reaper”). Without missing a bleat, he joined the chorus of criticism: “We just can’t deal with all the big issues at once. It won’t work, and it’ll be a major undertaking. We’ll all be ready for embalming.”

“Please, ladies and gentlemen,” the dean interjected. “We’re getting off course here. Personally, I love strategic planning; it gives life

meaning. But regardless of what any of us think, we're going to produce a strategic plan—*with metrics!*—because President Bosh says we have to do it. End of discussion. So let's gird our loins, whatever that means—no, George, you can explain the phrase to me later—and get started. Can we please spend a few minutes on substance?" [The Mutterer: "At a faculty meeting?!" "What issues do we need to deal with in the strategic plan?"]

The conversation inevitably turned to *U.S. News* and its rankings. We've been comfortably in the top 200 for years, and, although "Bringing up the Rear in Legal Education" might not be the best marketing slogan, you play the hand you're dealt.

Our Associate Dean for Academic Affairs and Public Relations, Sarah ("Shifty") Gears, complained: "We've tried everything to get into the top 150: handing out applications at malls; raising our tuition to \$100,000 and then giving everyone at least a \$50,000 scholarship; paying students not to take the bar exam; sending out brochures with 'Pat-the-Bunny'-type fuzzy inserts. Nothing has worked as well as we hoped, although the mention on Letterman was nice. If only we could develop the technology to get bunny-patting on our website. . . ."

"'Pat Ruloff Law' cost a lot to design and mail, Sarah," added the dean, "but that had some happy consequences. It increased our expenditures per student, and the more we spend, the better it is for *U.S. News*. We jumped to number 185 just because of that. Hank, that's another reason for having nice lunches. A single shrimp might not cost much, but when we serve a flock or herd of them—what do you call a group of shrimp?" [The Mutterer: "A committee."]—"we're making a major expenditure for the benefit of our students."

Like *U.S. News* or not—and I've never been happy with their unwillingness to rank cosmetics law programs—there was general agreement that the rankings needed to be studied as part of any strategic plan. We also agreed that outfitting each of us with a BMW would have a big-time effect on the rankings. When it comes to helping our students, we can't spend too much. (Professor Block did dampen our enthusiasm a bit, however, by describing the tax consequences of getting Beemers. We might have to increase the shrimp allowance instead—and continue to ignore Block's shellfish views.)

Some of my colleagues thought the strategic plan should also focus on curricular reform. We now offer 300 courses (compared to the 100 or so taught twenty years ago), and half of them, it seems, are taught by adjuncts who are friends of Associate Dean Gears.

"The curriculum is so out of control that no one takes my courses anymore," complained Professor Maurice Morris, the only remaining UCC teacher on the faculty. "I'm never again going to vote for a new

---

course unless it's one I'm going to teach. There are students in this building who think commercial law has something to do with advertising." [The Mutterer: "That's what *I* thought."] "TV ads do all seem the same, but that's not because of the Uniform Commercial Code."

Not everyone was interested in contracting the curriculum, however. Several spoke in favor of broadening our offerings, especially in experiential education, a subject close to President Bosh's heart. He tells alumni groups how proud he is that the Classics Department has several toga parties every year, complete with Caesar salads and liquefied grapes. Students learn by doing, and with toga parties, there's a lot of doing. Those parties fit nicely with Ruloff's emphasis on social justice: everyone should be entitled to party and participate in other social activities without regard to race, creed, or classlessness.

Joining the push for more experiential education, business associations prof Calvin ("Cab") Calley urged that we establish a mergers-and-acquisitions clinic so that our business-law students can get hands-on training, just as the kids do in the sexual harassment clinic. And there was some spirited talk (several professors had obviously imbibed before the meeting began) about simulations in legal history. Professor Tom ("Toyboy") Toynee said that, if we ever again have students reenact the Constitutional Convention, those playing Ben Franklin should have to take vows of chastity or face being struck by lightning. Our simulations had become much too stimulating.

We've already created several dozen courses to develop skills in representing particular types of clients, like rock musicians, second basemen, and point guards. Professor Betsy Bloat modestly thought the strategic plan should mention that she has produced a template for yet another experiential course.

To prepare students for the intellectual rigors of the subject, Bloat's proposed course in Representing Dog Food Companies would, among other things, require that they visit a factory to watch the chefs prepare Tasty Bits. "There's that old saw," she said, "that you don't want to see how sausages or laws are made. But, to be a good lawyer, you need to understand your clients' businesses. That's certainly true if you're hoping to represent dog food preparers." Bloat proudly added, "A course like this has never been done before." [The Mutterer: "No s\*\*\*."]

"And why stop with kibble?" Bloat continued: "I haven't yet worked out the details with the Nine Lives people." [The Mutterer: "Doesn't Morris get a say?"] "But manufacturing cat food has its own distinctive problems that would justify another new course. The hairball issues are *sui generis*." [The Mutterer: "Don't forget cockatoos." Pause. "And cockatiels." Pause. "And cock-a-doodle-does."]

---

---

Like every other law school in the country, Ruloff has established innumerable “centers” in recent years. Professor Tom Target (pronounced “tar-jay”), a prominent alternate dispute resolution scholar (his research has shown that settling every other case is economically efficient), spoke in favor of creating even more: “We could make a run for the top spot in number of centers. Everyone on the faculty should be their own center.” [The Mutterer: “I must be *off*-center.”]

A few old fogies—who let the goats back out?—grimaced at Target’s use of a plural pronoun (“their”) with a singular antecedent (“everyone”), but, just between you and I, most of us don’t give a bleepity-bleep about that sort of pedantry. Professor Trotter, the international law guru, raised a more fundamental concern about Target’s proposal: “I don’t want to be limited to one center. I want three or four of my own, and everyone else should have as many as they want.” [Grimaces again.] “Maybe every one of them won’t be a center of excellence, but what’s the matter with a few centers of OKness?”

Professor Kip Cooper (pronounced “Cooper,” believe it or not) argued that, if only to make President Bosh happy, we need to stress more interdisciplinary work: “Quantum Mechanics and the Law would be a good course, and maybe we can bring the geologists into our program for representing rock stars.” [The Mutterer: “Take nothing for granite.”] Cooper’s proposals might not have been entirely serious; it’s hard to tell at faculty meetings. In any event, he kept piling on: “If we work with the Department of Nutrition, perhaps we can develop shrimp programs for credit.” [“Yes!” yelled tax prof Block, as he headed back to the serving table to salvage the remains and, I’d like to think, to contemplate whether the receipt of shrimp, if taxable, might nevertheless be entitled to capital gain treatment.]

Brick and mortar issues are a central part of almost any academic strategic plan, of course, and that had to be true for us. Ruloff’s building has gotten shabby; the last renovation was a WPA project or something. We had tried to get TARP funds for refurbishing in 2009, but our proposal wasn’t deemed shovel-ready, even though at Ruloff Law the shoveling is nonstop.

The configuration of the building was another suggested planning topic. Professor Peter Packer (pronounced “Packer”—that’s two in a row!), director of the Center for the Study of Centers—with recent research reports focused on Wilt Chamberlain and Kareem Abdul-Jabbar—was sure we could raise money to convert the library into something useful: “As it is, it’s wasted space. Students never go there. It’s not very inviting. It’s crammed with books.”

Professor Packer’s suggestion attracted support, particularly from those on the faculty who hadn’t realized we have a library. Professor

Ben Ballet (gotcha!—this one’s pronounced “ballot”), the trial practice teacher known for his pirouetting, envisioned handball and basketball courts replacing the library. The “lower court” and the “higher court” would bring students and faculty together, he said, and also generate work for his personal injury practice.

The most dramatic proposal came as we neared the end of the meeting. There’s so much we want to do, and money is always in short supply. Professor Robert (“Bobaloo”) Lewis suggested we sell the naming rights to the law school: “The last few years I’ve watched tons of bowl games—you know, the Chick-fil-A Bowl and the CarQuest Bowl, the bowls Virginia plays in—and I see nothing wrong in having, say, the Victoria’s Secret School of Law: ‘We don’t hide the ball—or anything else.’ Sure, with transparency as our goal, we might have some difficulty highlighting the cosmetics law program, but we’d win the best briefs award in every moot court competition.”

I assumed the attack on my specialty was good natured—Bobaloo’s good nature had caused him problems in the tenure process—but I had to respond: “Of course, cosmetics law would fit. The more that’s uncovered, the more cosmetics are needed. Anyway, Victoria’s Secret wouldn’t control us forever. We could sell naming rights every few years, or maybe even on an annual basis. One year we might be Victorian, but the next year we could be the Clearasil School of Law. Then we’d reach the acne of the legal profession.”

Bobaloo’s inspiration had brought the sense of excitement to a high pitch—“just a little bit outside,” the Mutterer might have said. Everyone was getting into the flow, imagining sponsors for the school. The Kodak Moment had unfortunately passed, but a supporter of reproductive rights advanced Xerox as a potential sponsor. Maybe Fox News, suggested one of the goats, signaling our fairness and balance? Warren Buffett, nominated by Block, if he would agree to change the spelling to “Buffet”? (We could then trumpet our smorgasbord of courses.) Jude Law, making us the Law Law School, even though we’re not in California? Professor Bloat was so excited about the idea of sponsorships that she yapped, “What about the Alpo Law School? If we could get Alpo’s support, we wouldn’t have to roll over and play dead.”

Professor Carolyn Couch had been quiet throughout the hour, partly because it’s hard to talk with your mouth full of shrimp, but mainly because she never says much at faculty meetings. (She’s been referred to, by students and faculty alike, as the Couch potato.) This time, however, she tentatively raised her hand: “I have an idea for the strategic plan. Why don’t we emphasize that Ruloff is a nice place to study law? And that our grads become good, ethical, successful lawyers?”

“Well,” said the dean. “We can throw that in, but that’s not what President Bosh wants to hear. And it is sort of a bland idea, isn’t it?”

[The Mutterer: “Mr. Dean, I move to adjourn.”]

---

Preferred Citation: Erik M. Jensen, *Planning for the Next Century or the Next Week, Whichever Comes First*, 117 PENN ST. L. REV. PENN STATIM 7 (2012).