

# RACE AND ENTREPRENEURSHIP: RECLAIMING NARRATIVES

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*This essay makes the case for engaging in counter-narratives and inclusive storytelling within the transactional clinic curriculum. The authors leverage lessons from Critical Race Theory to amplify the voices and experiences of underrepresented entrepreneurs and marginalized communities in both clinic seminar and selected casework. In doing so, we challenge hegemonic narratives of entrepreneurship and expose our law students to the presence and impact of interlocking systems of subordination that minimize the existence and contributions of entrepreneurs of color. We challenge our law students and ourselves to become more creative and thoughtful lawyers to a more inclusive and diverse set of client-entrepreneurs.*

## INTRODUCTION

The myths and misconceptions surrounding entrepreneurship promote a homogenous vision synonymous with whiteness.<sup>1</sup> This narrative minimizes the lived experiences of numerous entrepreneurs of color, devaluing their contributions because they do not match the popular perceptions of entrepreneurial success.<sup>2</sup> Why is our conceptu-

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<sup>1</sup> Lynnise E. Phillips Pantin, *The Wealth Gap and the Racial Disparities in the Startup Ecosystem*, 62 ST. LOUIS U. L.J. 419, 427 (2018). Although this essay focuses on race, the authors recognize that the dominant narratives surrounding entrepreneurship also exclude and ignore intersectional experiences connected to gender, sexual orientation, immigration status, neurodiversity, and socio-economic status.

<sup>2</sup> See generally Elizabeth MacBride, *White Men Are Now the Minority of Business Owners in the United States*, FORBES (May 23, 2021) <https://www.forbes.com/sites/elizabethmacbride/2021/05/23/white-men-are-now-the-minority-of-business-owners-in-the-united-states/?sh=22c5c5431582> (“The demographic shift in the makeup of the entrepreneurial class in the United States has been largely overlooked, because the U.S. Census Bureau analysis is centered on employer businesses, where white men are a shrinking proportion of owners but still make up about 60% of all business owners. Narratives about business owners also tend to focus on a tiny minority of companies, fast-growth tech companies.”); Jordan Weissman, *Entrepreneurship: The Ultimate White Privilege?* THE ATLANTIC (Aug. 16, 2013), <https://www.theatlantic.com/business/archive/2013/08/entrepreneurship-the-ulti->

alization of entrepreneurs so painfully narrow? More importantly, how does this misconception limit our lawyering to entrepreneurs who do not fit the archetype? Lawyers of entrepreneurs—primarily transactional and intellectual property attorneys—cannot lawyer towards emancipatory ends if we erase the experiences, challenges, victories, and stories of diverse individuals negatively impacted by economic systems and policies.

This essay uses key lessons from Critical Race Theory (CRT) to disrupt the dominant narrative of who we recognize as an entrepreneur.<sup>3</sup> CRT scholars have documented three categories of counter-stories: personal stories, third-party narratives, and composite stories. All three alternative narratives “facilitate social, political, and cultural cohesion, as well as survival and resistance among marginalized groups.”<sup>4</sup> Personal stories document and acknowledge “the experiences of persons of color and how they experience racial discrimination, insult, injury or disadvantage.”<sup>5</sup> Third-party narratives transform “a particular, individual experience” into a bridge or shared experience with others.<sup>6</sup> Finally, “composite stories or narratives represent an accumulation, a gathering together, and a synthesis of numerous individual stories.”<sup>7</sup> When viewed collectively, these stories challenge and change the dominant narrative as well as the underlying legal landscape that elevates certain sectors, individuals, and communities.<sup>8</sup> This essay makes the case for engaging in counter-narratives and inclusive storytelling within the transactional clinic curriculum, and provides practical tools for doing so. We also showcase the role of case

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mate-white-privilege/278727/ (noting the underlying study limits the dataset of entrepreneurs to self-employed individuals with incorporated businesses, effectively eliminating smaller entrepreneurs like “bodegas” and similar enterprises). *See also* Rosanna Garcia & Daniel W. Baack, *The Invisible Racialized Minority Entrepreneur: Using White Solipsism to Explain the White Space*, J. BUS. ETHICS (2022), <https://link.springer.com/article/10.1007/s10551-022-05308-6> (discussing the prevalence of “white solipsism” to erase and marginalize racial minorities in entrepreneurship).

<sup>3</sup> Counter-stories facilitate social, political, and cultural cohesion, as well as survival and resistance among marginalized groups. Therefore, they need not be created only as a direct response to majoritarian stories.

<sup>4</sup> Lisa R. Merriweather Hunn, Talmadge C. Guy & Elaine Manglitz, *Who Can Speak for Whom? Using Counter-Storytelling to Challenge Racial Hegemony*, in PROCEEDINGS OF THE ADULT EDUCATION RESEARCH CONFERENCE 244 (2006), <https://newprairiepress.org/aerc/2006/papers/32>.

<sup>5</sup> *Id.* at 245.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Imani Perry, *Cultural Studies, Critical Race Theory and Some Reflections on Methods*, 50 VILL. L. REV. 915, 922 (2005) (noting that Critical Race Theory challenges “normative standards and ideologies that serve to marginalize and oppress peoples of color” by “exposing the norms that serve to marginalize us (notions of merit, color blindness without considering privilege, wealth versus income, etc.”)).

selection in introducing and developing counter-narratives to our law students, challenging them to develop into more creative and thoughtful lawyers.

## I. NARRATIVES OF ENTREPRENEURSHIP

### A. *The Dominant and Data-Driven Narratives*

Law students encounter entrepreneurship narratives long before they begin law school. Bill Gates, Steve Jobs, Jeff Bezos, and Elon Musk are household names. Entrepreneurship is nearly synonymous with Silicon Valley in the American lexicon. Entrepreneurship success stories that reach main stream media and permeate American culture focus on entrepreneurs who have built companies and become part of the billionaire class. “Conventional wisdom tells us that entrepreneurs are very special people. They are heroes who stand alone and overcome great odds to build companies through superhuman efforts.”<sup>9</sup>

Scott Shane’s *The Illusions of Entrepreneurship* grounds the dominant entrepreneurship narrative in reality by empirically describing what typical entrepreneurship actually looks like.<sup>10</sup> Shane describes the typical entrepreneur as a middle-aged white man with no special qualities who is “just trying to make a living, not trying to build a high-growth business.”<sup>11</sup> Additionally, entrepreneurship is common: Shane’s data shows us that 11.1% of U.S. households have a self-employed head and 11.3% of households own a business.<sup>12</sup> Entrepreneurs are people who “just[ ] want to earn a living and support [their] family.”<sup>13</sup> They are not overwhelmingly computer scientists or tech engineers; it is much more likely that their entrepreneurial venture is a “low-tech endeavor, like a construction company or an auto repair shop” started as a “sole proprietorship financed with \$25,000 of his savings and maybe a bank loan that he guarantees personally.”<sup>14</sup>

Shane’s data shows us that the dominant narrative of entrepreneurship in the United States is false. Data proves that entrepreneurship more typically encompasses mundane solo businesses. Nonetheless, the data also concludes that U.S. entrepreneurship is largely dominated by white men. In drawing data from the entirety of America, Shane presents a data-driven narrative that more recent

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<sup>9</sup> SCOTT A. SHANE, *THE ILLUSIONS OF ENTREPRENEURSHIP: THE COSTLY MYTHS THAT ENTREPRENEURS, INVESTORS, AND POLICY MAKERS LIVE BY* 40 (2008).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 41.

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.* at 4.

<sup>14</sup> *Id.* at 3-4.

data supports.<sup>15</sup> However, just as we should not learn to lawyer to the dominant but false narrative of entrepreneurship, critical race theory requires that we not learn to lawyer solely to the typical entrepreneur when diversity exists. One can think of entrepreneurship on a bell curve. The dominant (but false) narrative sets a white, college-educated, “jet-setting, Silicon-Valley residing engineer who, along with a couple of his buddies, has raised millions of dollars of venture capital to start a new company to make a patent-protected gizmo” at the top of the bell curve as the typical entrepreneur. Shane’s research resets the narrative with a middle-aged self-employed white man engaging in a “low-tech endeavor”<sup>16</sup> at the top of the bell curve. Critical race theorists ask what entrepreneurs sit on the rest of the bell curve? How do we lawyer to them? What laws, practices, and systems have prevented entrepreneurs who do not fit the dominant or data-driven narratives from accessing and having lawyers who are equipped to represent them and their various forms of entrepreneurship?

### B. Counter-narratives

As used by critical race theorists, storytelling draws upon the lived experiences of an individual or community.<sup>17</sup> Stories are inherently personal; a necessary counterbalance to supposedly anodyne laws and regulations. CRT uses narratives to challenge dominant norms and assumptions, centering the experiences of diverse individuals and groups.<sup>18</sup> CRT uses these counter-narratives to deconstruct harmful defaults and “embedded preconceptions that marginalize” diverse groups and “conceal their humanity.”<sup>19</sup> These alternative stories also reconstruct and reimagine a more just outcome and circumstances. By doing so, “well told stories describing the reality of Black

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<sup>15</sup> See MacBride, *supra* note 2 (“[W]hite male business owners comprise about 41% of the 30.5 million total owners of small businesses in America.”).

<sup>16</sup> SHANE, *supra* note 9, at 3.

<sup>17</sup> This essay uses the definition of “narrative theory” connected to critical race theory. In CRT, “narrative voice, the teller, is important to critical race theory in a way not understandable by those whose voices are tacitly deemed legitimate and authoritarian. The voice exposes, tells and retells, signals resistance and caring, and reiterates what kind of power is feared most—the power of commitment to change.” Derrick A. Bell, *Who’s Afraid of Critical Race Theory?*, 1995 U. ILL. L. REV. 893, 907 (1995). See also Leslie Espinoza & Angela P. Harris, *Embracing the Tar-Baby—LatCrit Theory and the Sticky Mess of Race*, 85 CALIF. L. REV. 1585, 1630 (1997) (“Critical theorists tell stories, both ‘real’ and ‘fictional.’ Arguably, the most significant impact of critical theory has been the reformation of legal analytical practices through the use of stories. Outsider tales provide an opportunity to breach the limits of language in describing oppression. They lead to the creation of new language. That which has not yet been named can be understood.”)

<sup>18</sup> See generally RICHARD DELGADO & JEAN STEFANIC, *CRITICAL RACE THEORY: AN INTRODUCTION* (2001).

<sup>19</sup> *Id.* at 50.

and brown lives can help readers to bridge the gap between their world and those of others.”<sup>20</sup>

In the absence of meaningful narratives, hegemonic norms and dominant perspectives are reinforced. Stories laud successful entrepreneurs pulling themselves up by their bootstraps.<sup>21</sup> We never consider or acknowledge that many may be barefooted. We erase entire populations of entrepreneurs by closing our ears to their stories. Worse, we compound the negative impacts by entrenching hegemony and stifling divergence.<sup>22</sup> We create laws and policies based on partial information and lopsided narratives, utterly failing to build nuanced and resilient entrepreneurial ecosystems.

In our clinics in Washington, D.C., we see a real divergence from both the hegemonic, false narrative of entrepreneurship and from Shane’s data-driven narrative of entrepreneurship. Whereas Shane’s data tells us a lot about the average entrepreneur in America, the faces of entrepreneurship in D.C. look different—42.2% of small businesses in D.C. are owned by racial minorities and 47.8% are owned by women; 33.1% of small businesses in D.C. have one or more Black owners.<sup>23</sup> 78% of D.C. small businesses have no employees.<sup>24</sup> It becomes clear that even the data-driven narrative is place-based, and not universal. Our transactional clinics practice in and draw clients from this diverse entrepreneurial environment.

## II. THE COSTS OF EXCLUSION

Excluding narratives that do not fit the dominant or data-driven story of entrepreneurship has long-lasting consequences for communities, clients, attorneys, and the legal profession as a whole. From an economic development and investment perspective, this myopia can lead to strategies that do not generate true, inclusive economic

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<sup>20</sup> *Id.* at 49.

<sup>21</sup> Horatio Alger, Jr. was a novelist famed for portraying rags to riches stories, where impoverished youth were able to attain great wealth thanks to their resilience and work ethic. See generally The Horatio Alger Society, *Horatio Alger, Jr.—Biography*, [http://www.horatioalgersociety.net/100\\_biography.html](http://www.horatioalgersociety.net/100_biography.html) (last visited May 19, 2023).

<sup>22</sup> “Dominant narratives carry multiple layers of assumptions that serve as filters in discussions of racism, sexism, classism, and so on. In short, majoritarian stories privilege Whites, men, the middle and/or upper class, and heterosexuals by naming these social locations as normative points of reference.” Hunn, Guy, & Manglitz, *supra* note 4, at 244.

<sup>23</sup> Compare U.S. SMALL BUSINESS ADMINISTRATION OFFICE OF ADVOCACY, 2022 SMALL BUSINESS PROFILE DISTRICT OF COLUMBIA 2-3 (2022) (33.1% of small businesses in D.C. have one or more Black owner) [hereinafter SBA DC PROFILE] with SHANE, *supra* note 9, at 143 (indicating that 4.24% of small businesses in the U.S. have Black owners).

<sup>24</sup> SBA DC PROFILE, *supra* note 23, at 2. Many more D.C. small businesses have no employees than Shane’s data show. According to Shane, only “24 percent of the new businesses founded each year employ anyone (and only 16.9 percent of the self-employed hire any employees).” SHANE, *supra* note 9, at 65.

growth. Economic investment in place does not always translate into investment in communities, but can focus on physical resources that can be rebuilt or redesigned to entice outside talent to move into underdeveloped communities. In this regnant scenario, existing populations or community institutions are not recognized as assets. The resulting economic development strategy actively devalues and ignores the community, perpetuating exclusion, and compounding economic hardship.

As educators, we are also aware of the broader costs to our profession when only servicing one category of client. In lawyering for the status quo, we diminish our ability as attorneys to engage in creative thinking and problem-solving. Deals become reductive, templates abound, and we lawyer within narrow constructs that prevent innovation. The following section outlines in greater detail the costs to both clients and attorneys in maintaining hegemony in our transactional work.

#### A. *The Costs of Exclusion to Clients*

Returning to the various narratives of entrepreneurship, we must interrogate the costs of exclusion from these narratives to clients and to the broader field of business law. First, who are we excluding by adhering to the status quo?

##### 1. *Exclusion by Place: Black Communities*

In his book, *Know Your Price*, Andre Perry notes the importance of understanding the interconnected nature of Black communities, Black-owned businesses, and devaluation by public and private forces.<sup>25</sup> He contends that “urban planning” and “urban development efforts” in Black communities are extractive in nature. Rather than investing in people and community, they see only the value of place as defined by land, building, and other inanimate physical assets.<sup>26</sup> In contrast, he notes how much of the development of Pittsburgh into a tech hub is connected to investments in “the *people* of Carnegie Mellon, University of Pittsburgh, Google,” in addition to physical assets.<sup>27</sup>

The failure to recognize Black individuals and their communities as worthy of investment only entrenches and perpetuates past harms. Numerous leading historians, legal scholars, and economists have highlighted the lasting impact of racist federal and state policies that

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<sup>25</sup> ANDRE M. PERRY, *KNOW YOUR PRICE: VALUING BLACK LIVES AND PROPERTY IN AMERICA'S BLACK CITIES* 34-41 (2020).

<sup>26</sup> *Id.* at 40 (noting the “invisibility of black institutions, firms, social clubs” in targeted economic strategies).

<sup>27</sup> *Id.* at 39.

resulted in massive devaluation of Black communities.<sup>28</sup> One Brookings Institute analysis estimates that homes in Black communities are devalued at \$48,000 per home on average, resulting in \$156 billion in cumulative losses nationwide.<sup>29</sup> The roots of this devaluation are entwined with racist public policy and private divestment, channeling resources, funds, and employment opportunities away from Black communities. As Perry emphasizes, this significant devaluation is money that could be spent starting businesses, saving for college, and growing the general economic health of the community.<sup>30</sup>

Exclusion also prevents any hope of remediation and future growth. For example, there is much emphasis on developing the technology sector as a local economic development strategy. While data has shown that there can be positive impacts, the capture of this economic benefit by marginalized groups is minimal.<sup>31</sup> Much of this sector appears to focus on bringing in new firms to existing spaces, rather than leveraging and investing in existing community members and assets.<sup>32</sup> Perry underscores the consequences on communities and individuals by emphasizing that “[e]conomic growth and advancements in technology are a direct result of strategic investments in people who are trusted. Those who are not trusted are left behind.”<sup>33</sup> Perry underscores that the recipients of economic investment “have no deep ties

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<sup>28</sup> See generally Audrey G. McFarlane, *The New Inner City: Class Transformation, Concentrated Affluence and the Obligations of the Police Power*, 8 U. PA. J. CONST. L. 1 (2006); Michelle Wilde Anderson, *Cities Inside Out: Race, Poverty, and Exclusion at the Urban Fringe*, 55 UCLA L. REV. 1095 (2008); RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017); Deborah N. Archer, *The New Housing Segregation: The Jim Crow Effects of Crime-Free Housing Ordinances*, 118 MICH. L. REV. 173 (2019); Norrinda Brown Hayat, *Section 8 Is the New N-Word: Policing Integration in the Age of Black Mobility*, 51 WASH. U. J. L. & POL’Y. 61 (2016); RASHMI DYAL-CHAND, *COLLABORATIVE CAPITALISM IN AMERICAN CITIES: REFORMING URBAN MARKET REGULATIONS* (2018); Anika Singh Lemar, *An Opportunity Zone Falls in a Forest*, 48 FORDHAM URB. L.J. 1183 (2021); Jade A. Craig, “Pigs in the Parlor”: *The Legacy of Racial Zoning and the Challenge of Affirmatively Furthering Fair Housing in the South*, 40 MISS. C. L. REV. 5 (2022); DESTIN JENKINS, *THE BONDS OF INEQUALITY* (2021); THOMAS SUGRUE, *THE ORIGINS OF THE URBAN CRISIS* (1996).

<sup>29</sup> Andrew M. Perry, Jonathan Rothwell & David Harshbarger, *The Devaluation of Assets in Black Neighborhoods: The Case of Residential Property* (Nov. 27, 2018), BROOKINGS, <https://www.brookings.edu/research/devaluation-of-assets-in-black-neighborhoods/>. Subprime mortgages are another example of the devaluation of Black communities. See Bernadette Atuahene, *Predatory Cities*, 108 CALIF. L. REV. 107, 124 (2020).

<sup>30</sup> PERRY, *supra* note 25, at 57.

<sup>31</sup> See Neil Lee & Stephen Clarke, *Do Low-Skilled Workers Gain from High Tech Employment Growth? High-Technology Multipliers, Employment and Wages in Britain*, 48 Research Pol’y 1, 10 (2019).

<sup>32</sup> Black residents of Pittsburgh experienced a double-digit decline in median wage during the tech boom period (2005 to 2015). In contrast, white workers realized an 8% gain in wages. Metro Monitor 2017 Dashboard (2017), BROOKINGS <https://www.brookings.edu/interactives/metro-monitor-2017-dashboard/>.

<sup>33</sup> PERRY, *supra* note 25, at 41.

to Black communities” effectively limiting growth and investment. By erasing the story of Black-owned businesses as entrepreneurship, we perpetuate a harmful cycle of race and place-based devaluation. We ignore the value these enterprises bring to the community, minimizing their contributions and ultimately deeming them as unworthy of investment. This causes immediate harm and hardship, but it also causes larger systemic and societal harms by maintaining practices that extract value from marginalized communities.<sup>34</sup>

## 2. *Exclusion by Scale: Small and Necessity Entrepreneurs*

In addition to excluding entire communities, the dominant narrative erases entire classes of entrepreneurship because of the scale of an enterprise or the economic sector in which the labor is performed.<sup>35</sup> Many excluded entrepreneurs are subject to interlocking systems of subordination based on gender, nationality, race, and class.<sup>36</sup> For example, there is no room in our story of successful entrepreneurship for self-employed entrepreneurs in the domestic and care-taking economy. This sector provides essential services from home daycares, residential and commercial cleaning services, and home healthcare workers. These sectors are heavily staffed by women and racial minorities.<sup>37</sup> Often the entrepreneurs and workers in this

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<sup>34</sup> PERRY, *supra* note 25, at 39 (stating that “[i]nclusive growth can’t happen without investment in existing talents and social network within the neighborhoods where they reside”).

<sup>35</sup> Timothy Bates, William E Jackson & James H. Johnson, *Advancing Minority Research on Minority Entrepreneurship*, 613 ANNALS AM. ACADEMY POL. & SOC. SCI. 10, 11–12 (2007); Steven J. Gold, *A Critical Theory Approach to Black American Entrepreneurship*, 39 ETHNIC & RACIAL STUD. 1697, 1685 (2016).

<sup>36</sup> Susan R. Jones, *Alleviating Poverty—What Lawyers Can Do Now*, 40 HUM. RTS. 11, 13 (2014) [hereinafter Jones, *Alleviating Poverty*] (“For some, like immigrants and people with criminal records, microbusiness may be their only option for earning income, a phenomenon known as necessity entrepreneurship. For others, it’s an alternative to a second or third job.”); *see also* Susan R. Jones, *Representing Returning Citizen Entrepreneurs in the Nation’s Capital*, 25 J. AFF. HOUSING & COMM. DEV. L. 45, 52 (2016) (“[E]ntrepreneurship is especially important for returning citizens in D.C. who have been incarcerated in jurisdictions outside of the city and may lack the necessary social capital to obtain gainful employment. . . . [S]upported by shared workspaces, business incubators and accelerators, microbusiness training and loan programs, and community development financial institutions, entrepreneurship in D.C. is rapidly advancing, necessitating special efforts to include returning citizens in the entrepreneurial eco-system. . . . [S]elf-employment through entrepreneurship is a form of necessity entrepreneurship for some returning citizens.”).

<sup>37</sup> *See generally* ENOBONG BRANCH, OPPORTUNITY DENIED: LIMITING BLACK WOMEN TO DEVALUED WORK (2011); *see also* Nina Banks, *Black Women’s Labor Market History Reveals Deep-Seated Race And Gender Discrimination*, ECON. POL’Y INSTITUTE: WORKING ECON. BLOG (Feb. 19, 2019), <https://www.epi.org/blog/black-womens-labor-market-history-reveals-deep-seated-race-and-gender-discrimination/>; PHI, *U.S. Home Care Workers: Key Facts* (2019), <https://www.phinational.org/resource/u-s-home-care-workers-key-facts-2019/>.



sector have been steered into these jobs by historical and structural forces based in race, class, and gender subordination.<sup>38</sup> One such obvious example is care work in the healthcare industry. While paid care work is still predominantly performed by women, “[w]omen of color are concentrated in the most physically demanding direct care jobs (nursing aide, licensed practical nurse, or home health aide), along with the “back-room” jobs of cleaning and food preparation in hospitals, schools, and nursing homes.”<sup>39</sup> Another vital example of care work is childcare. The vast majority of home-based daycare owners are also women. Data from California and Wisconsin is illustrative: (i) 98% of the home-based Family Childcare Center (FCC) owners in California (surveyed from a representative sample) are women<sup>40</sup> and (ii) 99.6% of the home-based family providers surveyed in Wisconsin are women, with 21% being Black, “a share well above the state’s Black population share of 6%.”<sup>41</sup>

Despite being tracked into undervalued sectors, these entrepreneurs build businesses under these unlikely and stressful circumstances. You may find yourself thinking, these are workers, not entrepreneurs! However, this is yet another fallacy of the hegemonic narrative. These day care owners are entrepreneurs as Shane defines entrepreneurs—they are taking on “the activity of organizing, managing, and assuming the risks of a business or enterprise.”<sup>42</sup> Numerous entrepreneurs are self-employed and may even be the only full-time employees of their enterprises.<sup>43</sup> They still pay taxes, provide important goods or services, and contribute to their local economy and community. We should not erase their value merely because their scale is

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<sup>38</sup> Evelyn Nakano Glenn, *From Servitude to Service Work: Historical Continuities in the Racial Division of Paid Reproductive Labor*, 18 *SIGNS* 1–43 (1992), <http://www.jstor.org/stable/3174725> (discussing the historical development of reproductive labor that ultimately results in the disproportionate representation of women of color in low-level reproductive labor positions); see also Marina Zhavoronkova, Rose Khattar & Mathew Brady, *Occupation Segregation in America*, *CTR. FOR AM. PROGRESS* (Mar. 29, 2022), <https://www.americanprogress.org/article/occupational-segregation-in-america/>.

<sup>39</sup> Janet Dill & Mignon Duffy, *Structural Racism and Black Women’s Employment in the US Health Care Sector*, 41 *HEALTH AFFAIRS* 265 (2022), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.01400>.

<sup>40</sup> Anna Powell, Elena Montoya & Yoonjeon Kim, *Demographics of the California ECE Workforce*, *CT. FOR STUDY OF CHILD CARE EMP.* (Jan. 13, 2022), <https://csce.berkeley.edu/publications/data-snapshot/demographics-of-the-california-ece-workforce/>.

<sup>41</sup> Leah Awkward-Rich, Ceri Jenkins & Laura Dresser, *Wisconsin’s Early Care and Education Workforce: Summary Report on the Survey of Family Providers*, *WIS. DEPT. CHILDREN & FAMILIES* 4–5 (Sept. 2021), <https://dcf.wisconsin.gov/files/childcare/pdf/pgd/wi-ece-workforce-family-provider-report.pdf>.

<sup>42</sup> SHANE, *supra* note 9, at 2.

<sup>43</sup> See *supra* note 24 and accompanying text.

different from Sam Walton<sup>44</sup> or Nipsey Hussle.<sup>45</sup> Likewise, many of these entrepreneurs also qualify as “necessity entrepreneurs.” Necessity entrepreneurship refers to individuals who enter self-employment or entrepreneurship “due to low income, lack of job opportunities, and limited government support.”<sup>46</sup> Often necessity entrepreneurs are undervalued because their entrepreneurial activities do not generate large-scale economic gains or growth.<sup>47</sup>

Again, erasing the value of these entrepreneurs results in the perpetuation of harmful hegemonic norms and investment strategies. Investment dollars and government programs are tracked towards entrepreneurs and firms that will have a return on investment. Invariably, these firms and entrepreneurs are not burdened by the same race, class, gender, and class based systemic forces that have uplifted certain individuals and communities. These recursive policies thus focus on luring new firms rather than investing in existing community members in the name of entrepreneurship as economic development.

When we define success as “going public”<sup>48</sup> or achieving “unicorn”<sup>49</sup> status, we reinforce hegemonic norms, limiting entrepreneurship to a certain privileged subset. Worse, by doing so, we erase the labor and contributions of thousands of people. This is both culturally and legally problematic. Erasure of marginalized entrepreneurs means continuing to perpetuate harmful myths that work against the interest of individuals and communities of color by continuing to ignore and devalue them. Additionally, it prevents any large-scale law reform or creative lawyering because by ignoring their stories, we ignore the problems, barriers, and challenges raised by the experiences of these entrepreneurs.

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<sup>44</sup> Richard S. Tedlow, *Sam Walton: Great From the Start*, HARV. BUS. SCHOOL: WORKING KNOWLEDGE PAPERS (July 23, 2001), <https://hbswk.hbs.edu/item/sam-walton-great-from-the-start>.

<sup>45</sup> Julian Mitchell, *The Art of Being Self-Made: A Conversation with Nipsey Hussle*, FORBES (Mar. 1, 2018), <https://www.forbes.com/sites/julianmitchell/2018/03/01/the-art-of-being-self-made-a-conversation-with-nipsey-hussle/?sh=232c9d55a07f>.

<sup>46</sup> Laura Serviere, *Forced to Entrepreneurship: Modeling the Factors Behind Necessity Entrepreneurship*, 22 J. BUS. & ENTREPRENEURSHIP 37, 41 (2010).

<sup>47</sup> Priya Baskaran, *Respect the Hustle: Necessity Entrepreneurship, Returning Citizens, and Social Enterprise Strategies*, 78 MD. L. REV. 323, 344–347 (2019).

<sup>48</sup> “Going public” refers to selling shares to the public as a means of raising funds. This is commonly connected to an Initial Public Offering (IPO). See Richard A. Mann, Michael O’Sullivan, Larry Robbins & Barry S. Roberts, *Starting from Scratch: A Lawyer’s Guide to Representing A Start-Up Company*, 56 ARK. L. REV. 773, 828–29 (2004).

<sup>49</sup> Lynnise E. Pantin, *Race and Equity in the Age of Unicorns*, 72 HASTINGS L. J. 1453, 1455 (2021) (noting that “unicorn” status refers to an enterprise receiving a one billion dollar valuation on the private market).

### 3. *Importance of Counternarratives for Excluded Entrepreneurs*

In contrast, an inclusive definition of entrepreneurship unveils persistent structural and systemic forces that engender necessity entrepreneurship. We give voice to excluded, impacted entrepreneurs. Richard Delgado and other critical race theorists emphasize the dangers of narratives in “silencing” divergent views and experiences.<sup>50</sup> The act of silencing is a type of racial gaslighting—leaving marginalized communities to “suffer in silence” and isolation.<sup>51</sup> Counternarratives are a beneficial tool to positively impact both individual entrepreneurs and usher in systemic reforms.<sup>52</sup> By giving voice to the voiceless, counternarratives can act as a means of healing—allowing excluded entrepreneurs to reclaim their narratives and value. Additionally, it forces the rest of us to listen. The counternarrative provides alternative evidence, facts, and theories to explain exclusion and agitate for a “paradigm shift.”<sup>53</sup> We understand that the mountain of systemic and historic barriers make entrepreneurship a necessity for many. We understand the limits of entrepreneurship in the absences of social safety nets like housing, healthcare, and public education.<sup>54</sup> We are forced to acknowledge that—much like interest—injustice compounds.

#### B. *The Costs of Exclusion to Attorneys*

##### 1. *Attorney-Client Relationship*

The dominant narrative of entrepreneurship—the white, male, cisgender, neurotypical, tech entrepreneur—is harmful not only to the

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<sup>50</sup> DELGADO & STEFANIC, *supra* note 18, at 49.

<sup>51</sup> *Id.*

<sup>52</sup> Melissa Hauber-Ozer, Meagan Call-Cummings, Sharrell Hassell-Goodman & Elisabeth Chan, *Counter-Storytelling: Toward a Critical Race Praxis for Participatory Action Research*, 36 INT’L J. QUAL. STUD. IN EDUC. 1175–1190 (2023) (noting that CRT-based storytelling “can help to surface and communicate experiential knowledge of oppression” and be used to advocate for meaningful social change), <https://doi.org/10.1080/09518398.2021.1930252>.

<sup>53</sup> DELGADO & STEFANIC, *supra* note 18, at 50.

<sup>54</sup> For a full discussion of common criticisms of entrepreneurship as an effective strategy, see generally Rashmi Dyal-Chand & James V. Rowan, *Developing Capabilities, Not Entrepreneurs: A New Theory for Community Economic Development*, 42 HOFSTRA L. REV. 839, 843 (2014) (exploring the failures of entrepreneurship initiatives in benefitting low-income individuals and in creating “widespread and reliable local economic development and poverty relief”); Pantin, *supra* note 1 (summarizing the structural barriers that have prevented black-owned businesses from competing successfully in the American market). For a historical overview of entrepreneurial endeavors, see generally Robert W. Fairlie & Alicia M. Robb, *Why Are Black-Owned Businesses Less Successful Than White-Owned Businesses? The Role of Families, Inheritances, and Business Human Capital*, 25 J. LAB. ECON. 289 (2007); W. Sherman Rogers, *The Black Quest for Economic Liberty: Legal, Historical, and Related Considerations*, 48 How. L.J. 1 (2004).

entrepreneur, but also to the attorney-client relationship in the transactional legal clinic. We have seen the disappointment time and time again on the face of a law student who holds assumptions about entrepreneurship yet finds themselves sitting across the table from a clinic client who does not fit the dominant narrative. Clients who, for example, are selling packages of used clothing to the families of returning citizens so that they can have clean clothes to wear home when they are released from prison. Or clients who want to organize a worker cooperative among several cleaning crews to improve the female owners' personal safety and financial security. In our collective experience, we see law students entering our clinics with some version of the dominant narrative of entrepreneurship in their minds. They do not necessarily think that they will represent the next Steve Jobs, but they tend to expect a college-educated client who is a natural-born leader, charismatic, and confident. They expect a client with a fully-formed business plan. But as Shane points out "there's no good evidence that new businesses founded by people with these characteristics perform any better than other start-ups. Believing these myths might focus your attention on the very things that you shouldn't spend your time on."<sup>55</sup>

The reality of our clinic clients is much messier than students anticipate. There is no fully-formed business plan with a market analysis and financial projections. Usually, there is no business plan at all! Furthermore, the client is likely already to have begun operating without any business entity formed or regulatory filings. The business may be the client's "side hustle" to supplement their existing low-wage job. Students experience some cognitive dissonance as they process their assumptions versus reality in their client interviews. Successful clinic students are able to reflect on their assumptions, pivot, and serve their client using client-centered lawyering. For some students, this pivot takes more time—and maybe the entire semester—including participation in structured reflections and clinic rounds. We have had students doubt their client's ability to start and run a successful business, largely based on how differently their client presents themselves against the dominant narrative of entrepreneurship.

This cognitive dissonance conveyed as doubt certainly affects the attorney-client relationship. Here, an illustration may help. Two students in one of our clinics became incredibly focused on the client's bottom line. They set as the goal for the client that their business would be profitable in five years. During clinic rounds, it became apparent that this goal was set by the clinic students, not the client. In-

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<sup>55</sup> SHANE, *supra* note 9, at 5.

deed, the client was building a social enterprise—a double-bottom line business—and cared equally about their social mission and financial success. The client was also from a background that does not fit the dominant or data-driven narrative of who an entrepreneur is. Clinic rounds were used to identify this dissonance between the clinic students' goals for the client and the client's actual goals. Some of the clinic rounds discussion delved into the identity of the client—particularly their neurodivergence and personal reasons for starting their business. The students were then able to shift how they approached their representation of the client to become student lawyers in service of their actual client, rather than an archetype.

## 2. *Creative Lawyering & Law Reform*

Counternarratives are essential for creative lawyering. The industry standard dictates the structure, tools, and defaults needed to best serve the dominant actors and power players in an entrepreneurial ecosystem.<sup>56</sup> Marginalized, underrepresented, and ignored entrepreneurs must create their own creative solutions—legal and non-legal—to navigate a world designed for other interests.<sup>57</sup>

In our experiences, entrepreneurs are particularly creative when it comes to raising capital and finding other resources for their enterprises. For example, many underrepresented entrepreneurs must be extremely innovative when procuring funds to build or grow their business. The standard sources include financial institutions like banks, self-financing, outside investors, and crowdfunding.<sup>58</sup> Each of these mechanisms has its own shortcomings, but we limit our discussion in this essay to the two leading forms of capital for our clinic clients—financial institutions and self-financing. Financial institutions may require a certain credit score, personal guarantees, or collateral that may make it impossible for many entrepreneurs to secure financing.<sup>59</sup> Furthermore, Black communities and households are often historically devalued, impacting the worth of any collateral they may pos-

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<sup>56</sup> Renee Hatcher, *Solidarity Economy Lawyering*, 8 TENN. J. RACE, GENDER & SOC. JUST. 24, 35 (2019) (“The current statutory framework is largely designed to regulate adverse self-interests of economic actors in the mainstream economy, like the employer/employee, landlord/tenant, and producer/consumer relationship. As such, our laws often fail to account for the diverse economic arrangements.”).

<sup>57</sup> See, e.g., Alicia E. Plerhoples, *The Promise of Social Enterprise for Poor Communities*, in THE CAMBRIDGE HANDBOOK OF SOCIAL ENTERPRISE LAW (Benjamin Means & Joseph W. Yockey eds., 2018) (making the case for social entrepreneurship as a creative and superior form of enterprise for economic development in marginalized communities in order to build and retain wealth within such communities and prevent gentrification.).

<sup>58</sup> GEORGE W. KUNEY & BRIAN K. KRUMM, THE ENTREPRENEURIAL LAW CLINIC HANDBOOK, Chapter 5 (2013).

<sup>59</sup> *Id.*

sess.<sup>60</sup> Self-financing, sometimes also called bootstrapping<sup>61</sup>, has similar limitations. An entrepreneur's ability to self-finance is directly linked to their personal assets and those of their personal networks.<sup>62</sup> The legacy of racism in the United States has led to a racial wealth gap,<sup>63</sup> which in turn makes it exceedingly difficult for Black entrepreneurs to self-finance.<sup>64</sup> Their homes, credit, savings, and those of their friends have been systemically and intentionally undervalued by public and private actors.<sup>65</sup> When the inputs needed to run your business are difficult to access because of capital shortages, entrepreneurs get creative.

Marginalized enterprises may explore resource sharing, bartering,

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<sup>60</sup> VICTOR HWANG, SAMEEKSHA DESAI & ROSS BAIRD, KAUFFMAN FOUND., ACCESS TO CAPITAL FOR ENTREPRENEURS: REMOVING BARRIERS 10-14 (2019) (indicating that studies have shown bias in lending practices and their impact on Black businesses), [https://www.kauffman.org/wp-content/uploads/2019/12/CapitalReport\\_042519.pdf](https://www.kauffman.org/wp-content/uploads/2019/12/CapitalReport_042519.pdf); see also Gene Marks, *Black-Owned Firms Are Twice As Likely To Be Rejected For Loans. Is This Discrimination?* GUARDIAN (Jan. 16, 2020), <https://www.theguardian.com/business/2020/jan/16/black-owned-firms-are-twice-as-likely-to-be-rejected-for-loans-is-this-discrimination>. Likewise, much has been written on the historic devaluation of assets in Black communities. See, e.g., Jonathan Rothwell & Andrew M. Perry, *Biased Appraisals and the Devaluation of Housing in Black Neighborhoods*, BROOKINGS (Nov. 17, 2021), <https://www.brookings.edu/research/biased-appraisals-and-the-devaluation-of-housing-in-black-neighborhoods>.

<sup>61</sup> Elizabeth Pollman, *Startup Governance* 168 U. PA. L. REV. 155, 170 (2019) (noting “founders often ‘bootstrap’ the business using their own funds, and those of family and friends, to finance development efforts and early operations.”).

<sup>62</sup> Pantin, *supra* note 1, at 443 (defining the friends and family round of investing).

<sup>63</sup> The racial wealth gap refers to disparities in economic security along racial lines in the United States. It refers to both the intergenerational transfer of wealth and the value of assets owned by a household. Benjamin Harris & Sydney Schreiner Wertz, *Racial Differences in Economic Security: The Racial Wealth Gap*, U.S. DEP'T TREASURY (Sept. 15, 2022), <https://home.treasury.gov/news/featured-stories/racial-differences-economic-security-racial-wealth-gap#:~:text=Several%20key%20contributors%20to%20the,accumulation%20of%20wealth%20over%20time>. At its core, the racial wealth gap displays inequality compounded over time, manifesting in very real poverty and continued exclusion based on race. The American racial wealth gap is the combined legacy of Jim Crow and extractive, racialized capitalism writ large. For a discussion of the connection between the entrepreneurial eco-system and racial wealth gap, see Pantin, *supra* note 53, at 1496–97. This should not be confused with income inequality, which refers to disparities in individual income. Although this too has a major negative impact across lines of race and gender, the racial wealth gap is a far bleaker indicator of inequality.

<sup>64</sup> Phillip Gaskin & Demetric Duckett, *Leveraging Entrepreneurship to Close Racial Wealth Gaps*, KAUFFMAN FOUND. CURRENTS BLOG (Oct. 20, 2020), <https://www.kauffman.org/currents/leveraging-entrepreneurship-to-close-racial-wealth-gaps-living-cities/>.

<sup>65</sup> For a riveting discussion of the private sector manipulations to undervalue certain communities through the municipal bond market, see DESTIN JENKINS, THE BONDS OF INEQUALITY: DEBT AND THE MAKING OF THE AMERICAN CITY (2022). For a discussion of the role of redlining as an extractive and racially-motivated federal policy, see Priya Bakaran, *Thirsty Places*, 2021 UTAH L. REV. 501, 511–541 (2021); ROTHSTEIN, *supra* note 28.

time-sharing, and other creative, low-cost, sustainable techniques.<sup>66</sup> In addition to the practical and operational considerations, many entrepreneurs are also motivated by the ethos behind these practices. Resource sharing is an act of collaboration and solidarity, not merely a cost-effective solution in the moment.<sup>67</sup> As interest in the sharing economy grows, so do the creative operational and legal solutions accompanying this new, non-traditional way of doing business.<sup>68</sup> This poses an interesting problem for transactional lawyers. Relying on the industry standard makes creative solutions impossible.<sup>69</sup> The industry standard assumes enterprises have access to sufficient capital and resources, thus a lack of these resources is indicative of a risky or unworthy venture. The industry standard fails to consider the systemic forces that marginalize entrepreneurs; nor does it explore the merit worthiness of the actual business plan or underlying concept. The standard, built to exclude these types of enterprises, generally determines the venture is unsatisfactory based on the status quo. Thus lawyering—in accordance with the industry standard—further disenfranchises and erases marginalized entrepreneurs. It can also become banal.

Navigating a bank loan, securitizing collateral, advising clients on the risks—these are all important but standard deliverables for a transactional attorney. The exciting work involves more novel and dynamic legal problem solving. For example, an early-stage venture may seek assistance negotiating and drafting a resource-sharing agreement with a community development corporation.<sup>70</sup> We are suddenly in uncharted waters, with no templates or form documents, relying on our research, critical thinking, and drafting skills to create agreements.

In addition to direct representation, law reform and legal advocacy efforts are becoming an increasingly important core competency for creative lawyers. Many entrepreneurs—particularly those operating in the social enterprise, solidarity economies, and community spaces—need advocates who will help them challenge the law when it is insufficient.<sup>71</sup> Only by listening to the experiences of entrepreneurs

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<sup>66</sup> For an illustration of this phenomenon with a hypothetical client, *see* Hatcher, *supra* note 56, at 30.

<sup>67</sup> Jenny Kassan & Janelle Orsi, *The Legal Landscape of the Sharing Economy*, 27 J. ENVTL. L. & LITIG. 1,15–17 (2012).

<sup>68</sup> *See* Hatcher, *supra* note 56.

<sup>69</sup> *Id.* at 31 (“[Sharing economy] lawyers must have a broad understanding of the full range of legal structures. Otherwise, the tendency may be to propose those structures with which they are most familiar, leaving other potential options unexplored.”)

<sup>70</sup> This scenario is adapted from a client matter. For examples of similar situations, *see* JANELLE ORSI, *PRACTICING LAW IN THE SHARING ECONOMY* (2012).

<sup>71</sup> Hatcher, *supra* note 56, at 25 (noting the important role of lawyers as outdated legal regimes are “ill suited for these new types of enterprise. So, while solidarity economy prac-

and understanding how the law fails them can we work towards reform.<sup>72</sup>

An important example of this work is the Community Enterprise & Solidarity Economies Law Clinic at the University of Illinois Chicago Law School.<sup>73</sup> The Community Enterprise & Solidarity Economies Law Clinic “focuses specifically on helping people build community enterprises—worker-owned cooperatives, non-profits, or small businesses that operate for the benefit of an underserved community.”<sup>74</sup> The clinic provides much needed legal expertise in the various legal systems enterprises must navigate. In particular, social enterprises immersed in the solidarity economy require guidance on traditional substantive areas—employment law, securities law, intellectual property, tax law, etc. However, as Professor Renee Hatcher notes—lawyers engaged in this work must interface with “a wide range of legal issues far beyond these traditional bodies of business law.”<sup>75</sup> This places such lawyers in an important and novel role. As attorneys working with social enterprises are “well positioned to identify the insufficiencies of the law,” they can advocate for reforms that better serve their clients.<sup>76</sup>

As part of their law reform and creative lawyering efforts, the Community Enterprise & Solidarity Economies Law Clinic joined local coalitions to advocate for the creation of a new entity structure suitable for worker cooperatives.<sup>77</sup> An early pain point for many enterprises pursuing worker cooperative models was an outdated and unclear state statutory regime. The existing statutory vehicle—the Illinois Co-operative Corporation Act<sup>78</sup>—was created to serve producer and consumer cooperatives.<sup>79</sup> Worker cooperatives in Chicago faced

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tioners are reimagining the economy and means of economic exchange, solidarity economy lawyers are attempting to reimagine the law to reflect the needs of their clients.”)

<sup>72</sup> *Id.*

<sup>73</sup> *Community Enterprise & Solidarity Economy Clinic*, UNIV. ILL. CHI., <https://law.uic.edu/experiential-education/clinics/community-enterprise/> (last visited Sept. 5, 2023).

<sup>74</sup> *Community Enterprise & Solidarity Economy Clinic - Clinic Brochure 2*, UNIV. ILLINOIS CHICAGO, <https://uofi.app.box.com/s/zi55z2stog25hm2oojqmuvu59ebe0p> (last visited Sept. 5, 2023).

<sup>75</sup> Hatcher, *supra* note 56, at 31.

<sup>76</sup> *Id.*

<sup>77</sup> A worker cooperative is a type of enterprise that prioritizes the interests of worker owners over the interests of investors. These stated interests may be value driven as well as economic. In this manner, the enterprise model operates very differently than standard business entities, which traditionally prioritize the interest of investor. Worker Cooperatives may also subscribe to the core principles shared by all cooperatives. Priya Baskaran, *Introduction to Worker Cooperatives and Their Role in the Changing Economy*, 24 J. AFF. HOUSING & COMM. DEV. L. 358 (2015).

<sup>78</sup> 805 Ill. Comp. Stat. 310 (2020).

<sup>79</sup> ILLINOIS WORKER CO-OPERATIVE ALLIANCE AND THE JOHN MARSHALL LAW



numerous challenges when attempting to form under this inadequate statutory regime. In particular, the law made it difficult to raise funds from worker-owners without quickly conflicting with state securities laws. Additionally, the existing statutory regime made it impossible to attract outside investors, a common source of funding for small businesses.<sup>80</sup> Another hurdle was a lack of clarity between owners of a cooperative enterprise and employees. Muddling these two distinct categories of actor—owner and employee—carried tax consequences and made it difficult for immigrant entrepreneurs to form or join cooperative enterprises.<sup>81</sup>

The Community Enterprise & Solidarity Economies Law Clinic successfully advocated for the passage of the Limited Worker Cooperative Association Act in Illinois.<sup>82</sup> The LWCA Act created a new entity specifically designed for worker cooperatives. Among the benefits of the new statute was an exemption to the Illinois Securities Law of 1953, making it easier to raise capital and add worker-owners.<sup>83</sup> The statute also clearly delineated that worker-owners are not default employees.<sup>84</sup> This provision is particularly important for enterprises where owners may have mixed and varied documentation statuses.<sup>85</sup> By engaging in much needed legislative advocacy, the Community Enterprise & Solidarity Economies Law Clinic embodied the type of creative lawyering most needed by their clients. Rather than accepting the status quo, the lawyers challenged an ineffective regime. The result was an important step in helping foster community based, wealth-building enterprises that place underrepresented and marginalized entrepreneurs at the forefront.<sup>86</sup>

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SCHOOL BUSINESS ENTERPRISE LAW CLINIC, COOPERATION CHICAGO: BUILDING CHICAGO'S WORKER COOPERATIVE ECOSYSTEM 14 (2018) (on file with author).

<sup>80</sup> *Id.* 12-14.

<sup>81</sup> UNIV. CHICAGO ILLINOIS, *Worker Cooperatives will now have their own corporate entity in Illinois* (June 7, 2019).

<sup>82</sup> Pathway to a People's Economy, *Illinois Limited Worker Cooperative Act*, PEOPLES ECONOMY.ORG (last visited Sept. 7, 2023).

<sup>83</sup> 805 ILL. COMP. STAT. 317/70 (2020).

<sup>84</sup> 805 ILL. COMP. STAT. 317/12(c) (2020).

<sup>85</sup> La Risa Lynch, *Worker Cooperatives Face Particular Challenges in Illinois*, CHI. REP. (Oct. 17, 2018), <https://www.chicagoreporter.com/worker-cooperatives-face-particular-challenges-in-illinois/>.

<sup>86</sup> Pathway to a People's Economy, *Illinois Limited Worker Cooperative Act*, PEOPLES ECONOMY.ORG, <https://peopleseconomy.org/illinois-resolution/> (last visited Sept. 7, 2023). (“To provide explicit recognition to worker cooperatives in Illinois. To provide more opportunity and structure for worker-owners to maintain control over their businesses, specifically for startup cooperative businesses in working class Black & Brown communities in Chicago.”).

### III. PEDAGOGICAL STRATEGIES

#### A. *Storytelling – Alicia’s Clinic*

How do the authors’ clinics break the hegemonic narrative of the entrepreneur in an entrepreneurship clinic? With D.C.-specific data, storytelling comparing dominant, data-driven, and alternative narratives of entrepreneurship, and by representing clients that demonstrate the diversity of entrepreneurship. The Social Enterprise & Nonprofit Law Clinic (SENLC) introduces students to the dominant, data-driven, and alternative narratives of entrepreneurship immediately. The first assignment for clinic orientation asks students to read a few chapters in Scott Shane’s *The Illusion of Entrepreneurship* as well as review the U.S. Small Business Administration’s data on small businesses in D.C. Students must then reflect, through written answers to discussion questions, on their understanding of who becomes an entrepreneur in the United States versus who becomes a small business owner in D.C. and to consider the reasons for the discrepancies. The goal of this assignment is to orient students to D.C.’s demographics and the likelihood—based on those demographics—that their client will not be an upper-class white male, cisgender, neurotypical tech entrepreneur.

For clinic orientation, students also listen to three episodes of the well-known How I Built This (HIBT) podcast hosted by NPR’s Guy Raz. The HIBT podcast features entrepreneurs who tell their stories of the beginnings of their business or brand, what challenges they overcame, and how their business ultimately became successful. The HIBT podcast uses narrative told directly by an entrepreneur. Each episode on the clinic’s syllabus presents a different perspective of what it means to be an entrepreneur. One of the selected HIBT podcast episodes highlights the founders of Luke’s Lobsters, one of whom is Luke Holden, who was two years out of college and working as an analyst at an investment firm when he wrote a business plan and started selling lobster rolls in Manhattan. Luke started Luke’s Lobsters in 2009 with \$30,000, of which 50% came from his own savings and 50% came from his father who owned a seafood company in Maine.<sup>87</sup>

The second podcast that clinic students listen to features Wendy Knopp, founder of Teach for America (TFA), a charitable organization. Wendy conceived the idea of TFA as her senior thesis at Princeton University. After graduating, she worked on TFA full

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<sup>87</sup> How I Built This With Guy Raz, *Live Episode! Luke’s Lobsters: Luke Holden and Ben Conniff*, NPR (Nov. 7, 2019), <https://www.npr.org/2019/11/06/776829547/live-episode-lukes-lobster-luke-holden-and-ben-conniff>.

time.<sup>88</sup> Finally, the third podcast that students listen to highlights Daymond John, founder of the clothing company FUBU. Daymond John did not go to college; after high school, he waited tables at Red Lobster as he started FUBU.<sup>89</sup> Students listen to these podcasts and in class we discuss each narrative—what were the keys to each entrepreneur’s success and who supported them financially, creatively, reputationally, or otherwise? We pinpoint the similarities and differences in each narrative—Luke Holden leased a space for his restaurant while Daymond John sold hats and T-shirts on a corner without a vendor’s license. But both were able to leverage their parents’ monetary support—Luke Holden through his father’s cash investment from his retirement account and Daymond John through his mother’s second mortgage on their family home.

Wendy Knopp’s narrative does not indicate how she supported herself financially while starting Teach for America but students have plenty of opinions about the socio-economic status of a Princeton graduate who has access to Ross Perot to pitch her ideas. When discussing Wendy Knopp’s story, we consider that not all entrepreneurship results in a for-profit venture—nonprofit founders can be entrepreneurial too. We discuss the legality and illegality of some of the entrepreneurs’ actions while starting their businesses—Daymond John once trespassed at a trade show to get his product in front of the right buyers—and whether it’s likely or not that any of the entrepreneurs had lawyers as they were getting their businesses off the ground. We discuss the race, class, and age of the entrepreneurs and how they fit or do not fit into the dominant narrative, Shane’s data-driven narrative, or the U.S. Small Business Administration’s data on who an entrepreneur is.

This assignment and class discussion—done on the first day of clinic orientation—begins our student lawyers down the path of questioning their assumptions about entrepreneurship. It puts the entrepreneurs’ stories first in an attempt to shift students from thinking of themselves as the center of the narrative (clients are the center of the principal-agent client-attorney relationship). It also exposes students to non-white, non-male, non-middle-to-upper class entrepreneurs and broadens the idea of entrepreneurship to include nonprofits and other forms of organizations. This assignment is not a panacea. The HIBT podcasts still represent a small slice of the diversity of entrepreneurship and we are constantly looking to improve this assignment with

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<sup>88</sup> How I Built This With Guy Raz, *Teach for America: Wendy Knopp*, NPR (July 8, 2019), <https://www.npr.org/2019/07/05/738989797/teach-for-america-wendy-kopp>.

<sup>89</sup> How I Built This With Guy Raz, *FUBU: Daymond John*, NPR (Nov. 4, 2019), <https://www.npr.org/2019/11/01/775448775/fubu-daymond-john>.

counternarratives—told in first person—that represent entrepreneurs in other service industries such as home care work or home-based child care work. Until then, this is a first step that we then build on throughout the semester as students represent their clients.

### *B. Client Selection – Priya’s Clinic*

The Entrepreneurship Law Clinic (ELC) at American University’s Washington College of Law is committed to serving the full spectrum of D.C. small businesses and social enterprises. Some of the most challenging and innovative legal work originated from our micro-entrepreneurs, solo shops thinking creatively about building, operating, and growing their enterprises. These entrepreneurs approached every obstacle with creativity and revolve, forcing students to think critically and dynamically about possible solutions. The ELC developed a relationship with the D.C. Small Business Development Center (DCSBDC) based out of Howard University.<sup>90</sup> The DCSBDC is committed to assisting entrepreneurs of all sizes, including many nascent enterprises. Through our close collaboration, the ELC is directly connected with numerous early-stage businesses in need of a variety of legal services. An important part of our current docket includes assisting self-employed entrepreneurs in the care-work space. Here, we use care work to refer to general domestic work including housekeeping, childcare, and elder care. These enterprises are often unable to afford legal services despite operating in important and thus heavily regulated sectors. Again, because of the demographics of D.C. and the care-work industry, we represent many women of color entrepreneurs. Our clients include doulas,<sup>91</sup> nannies, and elder-care specialists.

Students interfacing with these clients have opportunities to draft contracts for services in plain English and empower clients to advocate for themselves. The immersive experience underscores the importance of lawyering for present and future transactions as students build dynamic documents to grow with a client’s enterprise. Students also confront, alongside their clients, the frustration of financing and regulatory systems created for large scale enterprises. They commiserate with clients who encounter limits due to financial constraints and

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<sup>90</sup> District of Columbia Small Business Development Center, DCSBDC.ORG, <https://dcsbdc.org/about-dcsbdc/> (last visited Sept. 9, 2023).

<sup>91</sup> A “doula” is a trained professional who provides non-clinical physical, emotional, and informational support to birthing parents, often with an emphasis on person-centered care with particular sensitivity towards racial, ethnic, and cultural diversity considerations. Maryland Department of Health, *Medicaid Doula Program*, MARYLAND.GOV, <https://health.maryland.gov/mmcp/medicaid-mch-initiatives/Pages/DoulaProgram.aspx> (last visited Sept. 7, 2023).

appreciate local government resources in Chocolate City<sup>92</sup> committed to supporting and uplifting D.C.'s small businesses.

Although many law students come to the ELC in hopes of working on global transactions with multinational corporations, they leave with a firm foundation in lawyering that exceeds their initial expectations. Certainly, the skills they acquire—drafting, research, time-management, interviewing, client counseling, and negotiation—is a huge asset. However, it is their ability to engage in complex problem solving and analysis, coupled with embracing their role as advocates, that has a profound and lasting impact. Working with these clients transforms students from transactional mercenaries to client-centered attorneys, championing their clients' enterprises one deal at a time.

#### CONCLUSION

This essay has documented the dominant and data-driven narratives of entrepreneurship and used critical race theory to present counter-narratives as well as explore the costs—to clients, communities, and attorneys—of exclusion of the true diversity of entrepreneurship. In our clinics, we expand our law students' conceptions of entrepreneurship through narrative, case selection, in-class rounds, and other pedagogical strategies so that they can employ more creative lawyering and problem solving as they represent their clients. Washington, D.C., presents a diverse entrepreneurial environment to engage in inclusive lawyering. Nonetheless, entrepreneurial diversity exists everywhere—from rural farms that have agricultural or worker cooperatives<sup>93</sup> to care-work and other types of necessity entrepreneurship. One can employ an inclusive definition of entrepreneurship—and provide legal services and resources to an inclusive set of entrepreneurs—in any locality in the United States. Lawyering to an inclusive set of entrepreneurs helps break down structural and systemic barriers to entrepreneurship and economic development and growth for underrepresented communities.

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<sup>92</sup> Chocolate City is a nickname for Washington, D.C., referencing the city's role as a center for Black political power, culture, and art. See Megan McArdle, *Goodbye, Chocolate City*, WASH. POST (Aug. 14, 2021), <https://www.washingtonpost.com/opinions/2021/08/14/goodbye-chocolate-city/>.

<sup>93</sup> For examples of worker cooperatives on farms, see *Worker Co-op Farms*, U.S. FED. WORKER COOPS, <https://www.usworker.coop/blog/tag/workercoopfarms/> (last visited Sept. 9, 2023).