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Don't Know What Blockchain Is? You Should. This Law Prof Can Help.

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Bitcoin. Ethereum. Blockchain. It sounds like a foreign language, clouded in mystery.

But with billions of dollars flowing through cryptocurrency systems, and governments and major companies looking to blockchain technology to reform a wide variety of critical record-keeping systems, law students and lawyers need to get up to speed.

Even with great change brewing, only a smattering of law professors have published research in the area, and even fewer have launched formal classes for law students.

Angela Walch is one of the first law professors who have latched on to the importance of digital currencies and blockchain technology. Starting research in 2012, Walch, who is a professor at St. Mary's University School of Law in San Antonio, has made a mark in the cryptocurrency community with research that suggested—despite the decentralized promise of blockchain technology—that actual identifiable people govern the systems, and furthermore, they should owe users a fiduciary duty. Walch's law school course she started in 2013 was pioneering in teaching students about bitcoin and the blockchain.

In essence, blockchain is a record-keeping technology. It's innovative because instead of storing a record in one computer file located on one computer or one server, blockchain records are stored on multiple computer "nodes" that communicate together and record changes simultaneously. Bitcoin, the first digital currency that arose in 2009, was the first application of blockchain technology. But experts in the field use an analogy to explain the technology's many applications. They say that email is to the Internet as cryptocurrency is to blockchain technology. While you can use the Internet to send an email, you can also use the Internet for many other things. The same is true of blockchain technology.

An IBM survey this year of 3,000 C-level executives found that 80 percent of them were using blockchain technology, or considering it, to make new business models or follow the

financial shift in the industry. In a survey by Deloitte, 28 percent of respondents said their companies invested \$5 million or more in blockchain technology; 10 percent of the respondents' companies had invested \$10 million or more. Coinbase, a cryptocurrency news website, reported on Aug. 4 that "initial coin offerings"—business fundraising using cryptocurrency—had reached an all-time high of \$1.6 billion.

"People are saying this technology is going to make fundamental changes in how finance operates, how property records operate, how the rules of evidence operate, how actually we regulate different industries," Walch said. "Law is definitely among the fields that is potentially going to be transformed by blockchain technology."

Walch said that right now, technology enthusiasts are reshaping important systems without much input from lawyers.

"I wish more lawyers would be educated about this, because I think lawyers actually have an important perspective to bring to the discussion. The critical thinking lawyers do, their experience with helping clients with very important matters, and understanding how the legal system works, and how it intersects with other systems—those need to be part of the discussion," Walch said.

Andrew Hinkes, partner in Berger Singerman in Fort Lauderdale, said that Walch forged a path as one of the few academics looking at the technology's use from a legal and behavioral perspective.

"I'd say she's definitely been a voice of the application of common sense and logic to a really Wild West community," Hinkes said. "I think that she has looked at things in a way that tries to harmonize these new technologies and systems with things that already exist."

As blockchain technology has emerged from early growing pains, investment in digital currencies are increasing and large companies are examining other uses of blockchain technology. Fundraising through initial coin offerings are exploding, sending billions in capital into new companies.

"This is something that potentially could touch every part of practice," said Hinkes, who writes and speaks about virtual currencies and has represented clients in the area.

And Big Law has taken notice, Walch said, launching financial technology, or fintech, practices.

"There are not many blockchain technology, cryptocurrency lawyers now. Although in the last few years, pretty much every big law firm now says they have a fintech or digital

currency group or blockchain technology group. They all want to be seen as being part of it," she said.

Firms with such practices include Cooley, K&L Gates, Pillsbury Winthrop Shaw Pittman and White & Case.

Lawyers with an understanding of the technology are far ahead of others, she said. Even with that promise, it's still rare in the law school world to see a course that covers the topic.

Walch was among the first to bring bitcoin into the classroom with a course called Law of Money. She started teaching about it in the spring of 2013. Another early adopter in 2014 was law professor Geoffrey Miller of New York University School of Law, who teamed up with his university's business school on a bitcoin class.

St. Mary's Law student Sarah Phillips took Walch's course in the fall of 2016. As an aspiring estate planning lawyer, she wanted to learn about how to plan for a client's digital assets. Phillips, 30, said her friends forego buying stock and instead buy bitcoin and other cryptocurrencies as investments.

"It started out as such a black market—gamers and kind of that underground world—that no one had much authority," Phillips said. "It's interesting seeing how quickly it's starting to catch on."

She added, "It's incredibly important, because it's a huge asset a lot of people overlook or don't understand. Especially in the estate planning world, you have a lot of older attorneys who are very set in their ways. There's not a lot of change that happens in money law."

St. Mary's Law alumni Scott Rodriguez said that taking Walch's course in the fall of 2016 has already helped him in practice. The 2017 graduate works as a corporate executive at Nova Molecular Technologies Inc. in Houston, a chemical corporation.

He noted that digital currency is only one application of blockchain technology. Decision makers in the chemical industry are just becoming aware of the potential to use blockchain technology to track and manage inventory and other things. Meanwhile, Rodriguez has a thorough understanding of the new technology and how it might add value to his company.

"It's helped me have an edge up on other individuals in this space who don't know what it does and how it can assist the business," he said. "It's going to be important for a lot of sectors of the law to be familiar and at least understand the basics of digital currency and where it's going and how it may affect them."

There's no sense in saying that cryptocurrencies are the wave of the future—they're already here, said David Silver, a litigator who represents bilked investors who have sued three of the biggest cryptocurrency exchanges in the United States.

“Understanding the legal implications of the blockchain is another attorney growth area for a profession that desperately needs growth areas. Teaching tomorrow's lawyers how to operate in a new world order is something every law school should be doing,” said Silver, founding partner in the Silver Law Group in Coral Springs, Florida.

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