



# The Future of Law

*By Frank Ramos*



To Ana

*My love*

To David and Michael

*Never Stop Playing*

DRI

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## About the Author

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## Foreword

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What will the practice of law be like in five years? Ten? Twenty? For decades, many have warned that the practice was headed for seismic changes leaving the practice unrecognizable. For that to happen, technology had to catch up to the soothsayers. Well, it finally has. The change has begun and like a snowball rolling down a hill, the changes will become bigger and faster in the months and years ahead. We lawyers can no longer hope this is going to be someone else's problem. It's ours and it must be wrestled with now. This book will address the changes to the practice and how we can better equip ourselves not only to survive in this new environment, but to thrive in it. These are exciting times. Let's not shun change. Let's get ahead of it and affect its trajectory in our favor. What's the Future of Law? We are.



# How Did We Get Here?

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## My Practice in 1997

I was admitted to the Florida Bar on September 21, 1997. My first job was at a national defense firm handling an array of auto, premises and med mal matters. We had a law library. We had Westlaw, but it could only be used for “emergencies” or “special clients.” If I wanted to research, I took my yellow pad and pen and spent the day in the library reading cases, Shephardizing them by hand, and placing the individual reporters on a cart with tabs of my cases so our runner could copy them for me. This was legal research circa 1997.

I didn’t exchange emails with opposing counsel or clients. I dictated letters, our word processing department would type them, I would revise them by hand with a red pen, send it back to word processing and I would receive a finished letter on letterhead. I would sign it and get a response—a letter—a week to two weeks later. Everything moved much slower then.

I don’t remember if our firm had a website. If we did, I never took a picture for it and my bio didn’t appear on it. At the time, you learned about other firms through a printed version of Martindale Hubbell. I remember pulling off the 1998 version from our library’s shelves, flipping expectantly to our firm’s entry and disappointed not to find my name among the list of attorneys. “We don’t list associates,” the Miami Managing Partner told me. “If we listed associates and their credentials, other firms would lure them away.”

I remember covering a lot of hearings and attending my share of depositions that first year of practice. The firm had established insurance clients who sent us all their liability and coverage matters in South Florida. I was one of about a dozen associates who dutifully handled the matters to resolution. The idea that the flow of work would slow, much less stop, was inconceivable. The job was to find enough hours to keep up with all the new matters, and I was relieved whenever a new associate was added to the ranks.

It was a hierarchical system. You had the rainmakers, the trial lawyers, and those who worked the cases. There were those who brought in cases, those who tried them, and the rest of us who worked the front lines. We weren’t there to develop business. We were there to bill hours.

Two months into the job, a senior associate invited me for drinks at a bar downstairs. He ordered a beer and asked what I wanted.

“I guess I’ll have a beer.”

“I guess?”

“I’ve never drank before.”

“Never?”

“Never.”

“Why now?”

I laughed and said, “Have you seen my inbox?”

This is how we practiced law back then. This was before technology changed everything.

## Once in a Lifetime by Talking Heads—*How Did I Get Here?*

If you watch as many movies as I have, you may have heard the song *Once in a Lifetime* by Talking Heads in a movie where the protagonist is wondering “How did I get here? Why did my life take the turns it did so I wound up here?” The lyrics start:

And you may find yourself  
Living in a shotgun shack  
And you may find yourself  
In another part of the world  
And you may find yourself  
Behind the wheel of a large automobile  
And you may find yourself in a beautiful house  
With a beautiful wife  
And you may ask yourself, well  
How did I get here?  
Letting the days go by, let the water hold me down  
Letting the days go by, water flowing underground  
Into the blue again after the money's gone  
Once in a lifetime, water flowing underground  
And you may ask yourself  
How do I work this?  
And you may ask yourself  
Where is that large automobile?  
And you may tell yourself  
This is not my beautiful house!  
And you may tell yourself  
This is not my beautiful wife!

I ask myself “How did we get here?” when it comes to our profession. How did so much of our work become commoditized? How are companies like Legal Zoom supplanting law firms? When did we become so reliant on technology? When did we stop talking to each and started talking to our mobile devices? And how did artificial intelligence secure a foothold?



And how about the future? Will Corporate America own law firms? Will there be a market where you can buy, sell and trade futures on the outcomes of lawsuits? And what speculation will that create? Will it be akin to the housing boom/bust that led to the 2008 financial crash? Will we have a race to the bottom for legal fees as clients create online bidding sites to secure the best lawyers at the absolute lowest price?

And as soon as I focus on the pitfalls and challenges, the fears and uncertainties, I also see immense opportunities for those of us who embrace these changes, learn from them, adopt them and make the most of them. Reactionary law firms will lag behind. Law firms who lead the charge on change will be the first to market and will reap the rewards. But let's not get ahead ourselves. Like Talking Heads, let's ask ourselves, "How did we get here?"

## The Internet

The internet changed everything. It was the Great Equalizer. Over time, as it evolved, everyone gained access to everything. Everyone gained access to everyone. Imagine a time without internet? Hard to, isn't it? It's become so ingrained in everything we do that it's difficult to imagine life before it. I can't imagine a time when I couldn't send anyone in the world an email. What was life like before Facebook, Twitter and LinkedIn? There's no question in the world we can't find the answer to within five minutes through Google. The world's knowledge, wisdom, and understanding are at our fingertips. The world's misinformation, hatred, and anger are also at our fingertips. We can donate money to a tribe who needs fresh water half way across the world. ISIS can recruit our neighbors from their hideouts and training centers in the Mideast. News is instantaneous and worldwide. So is communication. So is commerce. So is finance. What company doesn't have a website, much less an email? Social media marketing has become ubiquitous. Arguably, the internet has changed us more than any other invention—more than the light bulb, or the combustible engine, or the telephone or even the television. And what's crazy to think about is that we are far from exploiting everything the internet can be. The internet's growth and evolution has only begun.

When an invention changes us like the internet has, it changes our professions, including law. The internet has changed how we research and communicate, how we interact with clients, judges and juries, and the speed of client services and efficiencies of our practices. The internet has allowed us to have everything we want, when we want and on our terms. Thanks to Amazon, Netflix, Uber and others who have made the most of the internet, we have become a culture of getting what we want, as quickly as possible, and on

our terms. That affects our clients who expect the same when hiring us to serve their legal needs. The internet is a mixed blessing for us lawyers.

## The Smart Phone

As a teenager, I always had spare change if I ever needed to use a pay phone in case of an emergency. Pay phones were ubiquitous. Now, they are mostly gone. Who doesn't own a smart phone? And more and more of us are opting for unlimited data plans. Unlimited calls, text, instant messages, internet, video streaming, music, etc. We have computers in our pockets and purses that are more capable than the NASA computers that helped put Armstrong on the moon. We have moved from communicating in person, to computers, to laptops, to phones. Our communications have gone mobile and pocket-sized. More and more of our practice has moved to our phones. Clients access us on their phones through our mobile-friendly websites. We receive breaking news, watch movies, listen to podcasts, access CLE and do a plethora of other things on our phones. Our phones have replaced watches, radios, televisions, newspapers, magazines, books, computers, and in many respects, personal interactions. It's the ultimate Swiss Army knife. The world's media, communications and technology are at your fingertips. What would have filled a room a generation ago now fits in your hand. Easy and ready access to so much increases expectations from consumers when dealing with other aspects of their lives. Our clients are no different. If they can get such quick and ready access to so many different things, why, they think, can't it be the same for legal services? Why can't they get immediate answers to their legal questions, anywhere at any time? By raising consumer expectations, the smart phone has raised the bar for all service professionals, including lawyers. Improved technology has led to the expectations for improved legal service.

## Social Media

There was a time when you met a friend you hadn't seen in a while, you would catch up about your respective lives—work, family, vacations, hobbies, etc. There was a time when we could only communicate with so many people given the constraints of time, technology and travel. We could call friends, write them letters and meet them in person. And because our social circle was constrained in small and large ways, our circle of influence was correspondingly limited. That's all changed. We go to voluntary bar association events and everyone we know already knows us. They know how our career is going, how our family is doing, where our kids are going to school, where we've traveled and what restaurants we patronize. They



even know what shows and movies we watch, what books we read and what issues we follow on the news. Our posts on Facebook and LinkedIn and our tweets on Twitter ensure that those who know us really know us. And so social media, while eroding our personal privacies has spread our individual influences across hundreds, thousands and hundreds of thousands of others. And we don't have to be a president, an athlete, a performer or a movie star to wield this influence.

As I write this paragraph, I have over a thousand "friends" on Facebook and 30,000 followers on LinkedIn. There was a time that one's rolodex captured a couple hundred names at most. And who had the time to call, write or personally meet all those individuals? Now, I post something on LinkedIn, and I have attorneys from across the world commenting on it, liking it or sending me messages about it. There was a time being a thought leader or an influencer was foreign. Now it's a given.

And as we disclose more and more about ourselves to more and more individuals, we have grown accustomed to complete transparency in our personal and business relationships. With so much readily accessible data about ourselves available for public consumption, clients want to dive deeper into who we are as individuals and practitioners and learn more about how our firms can serve their needs and interests. Companies, which have become data driven, want more and more data from us as their potential lawyers.

## On Demand

When I was a kid, I had six channels and a dozen radio stations. I watched and listened to what was available and if I missed a favorite show or radio program, I simply missed my favorite show or radio program. Others determined what we watched and listened to and when we watched and listened. Shows and songs came and went based on ratings, but it was an imperfect way to watch and hear what you wanted. And we all considered this perfectly normal. We had some control, or so we thought, over film, television and music producers to give us what we wanted based on what movies we saw, what stations we tuned into and what albums we bought. We never conceived a time would come that any movie, show or song we wanted to see or hear would be available whenever we wanted, on our terms. Today, we take immediate access to anything and everything for granted. There is no longer any waiting, and with the loss of the art of waiting comes the loss of the art of patience. Who has times for commercials? Or to wait a week for a new episode? Or to wait for any period of time for anything? On demand programming has made us, well, very demanding. And this behavior cannot help seep into our business relationships. Clients want what they want and want it now because well, that's what they have grown accustomed to in other facets of their lives. In a way, on demand programming has made little monsters out of all of us. We teach little children impulse control and the importance of delayed gratification. Technology has undermined those behaviors in us.

## Instant News

Nothing happens in this world without us learning about it immediately. We have alerts on our phones to tell us about the latest event minutes, sometimes seconds, after it happens. On television, there is CNN, Fox News, MSNBC, CNBC, Fox Business, Bloomberg, C-SPAN, PBS, CNN Latino, BBC, and others. Multiple radio stations, podcasts and streaming news. Hundreds of online outlets posting news around the clock. Not just news outlets, but Twitter, Facebook and LinkedIn. Who reads newspapers anymore? How about weekly news magazines? Who waits a week for news? Or even until the morning to pick the paper up from the lawn? Print media is on life support. Most of us get our news on our phones, either through online articles or television news programs. We've developed a Pavlovian dog response to "Breaking News." Not only do we want the news but we want it as it breaks, and the media trips over itself to feed our addiction. Addiction isn't too strong a word. Some psychologists believe many of us "need" our "news fixes" and we suffer withdrawal systems when we're away from our phones or televisions. When everyone learns everything right away, clients come to



expect to have the same access to information on their matters and from their counsel.

## The Marketplace

Malls were once kings of retail. We went to malls to buy clothes, furniture, electronics, books, toys—you name it. We were limited to what stores in our neighborhoods had in stock, which limited our choices, and in turn, our expectations. Retail catalogs expanded selection, but not by much. There were only so many books, shoes, shirts and televisions to choose from and the price was fixed from store to store and from mall to mall. Then Walmart came along, and pushed prices down. Other chains, to compete, had to push their prices down, and those who couldn't do it, or couldn't do it fast enough, closed their doors. And we thought Walmart was not only the new model but the lasting one. It appeared invincible. And then came Amazon. Why go to the mall, when you get whatever you want online? And I do mean whatever you want. And their prices were competitive and shipping became free. And suddenly Walmart didn't look so invincible.

Just as Walmart redefined the marketplace through low prices, Amazon redefined the marketplace by creating the largest online mall, with low prices and free shipping. Amazon made Walmart's big box stores, and they were the biggest around, obsolete. Why drive to Walmart and stand in their long lines, when I can get everything they sell online? For the same or lower price? And have it delivered to my house? For free? And just like that, Walmart lost its dominance. And what will the next retail revolution bring? From two day shipping to one day? To the same day? One hour? And how about even more variety and even lower costs? How about virtual malls? Virtual shoppers? The focus will be to give us more of what we want, at the price we want in the most convenient manner possible. And if we can do that with retail, why not professional services? Why not legal services? That's what clients are thinking.

## We Want What We Want, We Want More for Less and We Want It Now

Technology has pushed capitalism into overdrive. It has redefined the law of supply of demand. If you're the consumer, this economic evolution has given you exactly what you want, when you want it at a reasonable price. We're no longer stuck with bundled cable services. We're no longer stuck paying four dollars for a movie at Blockbusters, and paying 4 more dollars when we return it 2 hours late. We're no longer paying more for less. Companies who insisted on giving us what they wanted at the prices they set, refusing

to innovate, are out of business. They have gone the way of Circuit City, Kaufman & Roberts, Blockbuster, Borders and Radio Shack. And how about the next wave of closures—Sears? JC Penny? Toys R Us? How about all box stores? How about all brick and mortar retail? Technology has empowered companies to give consumers what they want on their terms and in so doing has empowered consumers to reject companies who insist on conducting business on their own terms. Capitalism is consumer-preference driven. We are happy with this arrangement when we're the consumer and we benefit from technology making capitalism ever more consumer-centric. We are less happy when we are the provider of services and have to change what we do, how we do it and what we charge for it to keep our clients happy and coming back for our services. For so long, lawyers were able to dictate the terms of the relationship with clients. That has been changing for some time and technology has accelerated that change. Clients want their legal services the way they want their retail services. And we lawyers will have to adapt or perish.

## My Practice Today

My practice today is drastically different from what it was when I started. Everything moves faster. Clients have greater access to me. Clients want me to respond right away. Everyone has my cell phone and email address and contact me at any time—day or night. Research is faster, easier and more thorough. Tasks take less time and less effort. What we used to charge for—our expertise—we now give away through our websites, blogs and social media posts. My dictaphone was replaced by a desktop, which was replaced by a laptop, which was replaced by a tablet, which has largely been replaced by my phone. Work had to be done in an office. Today, I work anywhere—at home, at the airport or at a coffee shop. There used to be so much paper. Today, there rarely is. Everything is in the cloud. There's no paper in my desk drawers anymore. In fact, there's hardly anything in my desk drawers anymore.

I interacted with clients in person or by phone. Today, it's mostly through emails, texts and social media. Marketing was once done exclusively at conferences, golf courses, sports arenas and cocktail hours. Today, we have moved beyond the golf course to our websites, blogs and social media. We still meet in person, but we often rely on social media to keep the relationship going. We used to float above changes in other industries. They have finally caught up with us. We're no longer simply professionals and our trade is no longer simply a craft. We are a service industry, we are a business, and in many ways, large and small, our services have become commoditized.

I've heard for so long that technology would never catch up to what we do to inherently change the practice. Well, technology has caught it. It still has a way to go. No argument there. But it has advanced sufficiently to redefine how we practice law. That's my practice—our practice—today.

## Where Did the Stalwarts Go?

So many lawyers for so long have insisted that the practice would never change. Changes in technology would not affect us. Changes in commerce would not affect us. Changes in other industries would not affect us. And in some ways, they're right. The legal profession has been able to resist many of the changes transforming other industries. Whereas retail, health care, and other sectors of our economy have evolved, the legal profession has managed to drag its feet, at times kicking and screaming like a toddler, refusing to change. But change has occurred. The billable hour is being replaced by alternative fee agreements. Clients, not lawyers, are dictating price. Efficiencies are being imposed on our practice. Processes, flowcharts and checklists, best practices, data analysis and algorithms, which have become the default in retail, are taking hold in the practice. We are more available, more mobile, more online and more subject to the changes around us. I agree with those who say online interactions will never replace personal ones, that Starbucks cafes are not the future law office and that all it takes to get clients is gaming Google and becoming the first to appear when someone searches for "best lawyers." The profession isn't dying. We're not being replaced by androids. But it's not the same practice. And those who said the practice will never change are tacitly admitting it will, confessing now that they're in the twilight of their careers, and when the real change comes, they'll be on a beach or golf course, oblivious to it all. Most have accepted change is coming. Some are hoping they can subset their careers before it comes.

## It Seems Like Ancient History, Doesn't It?

In my lifetime, I've gone from the rotary phone on the wall, to the cordless, to the personal beeper, to the clunky cell phone, to one iteration of cell phone to the next to the present day iPhone. I've gone from doing my own programming on a 16 bit home computer to the laptop and tablet. I've gone from a picture tube living room furniture-sized television to watching shows on my phone. From the mall to the virtual mall. From snail mail, to email, to instant messages and text messages. We have gone from arithmetic changes for most of human existence to geometric changes in the last decades. From linear evolution to exponential. What once simply fluttered in our

imagination like gossamer wings—private space travel, autonomous vehicles, artificial intelligence—is now all within our grasp. We are in an age where a thought, just about any thought, can become a reality. Technology has caught up with our ideas. And in so doing, has emboldened us to unbridle our creativity and let it roam and race and prance in fields once fenced off. The past, even the not too distant past, seem like ancient history as we look ahead to endless possibilities. Our profession is being challenged no doubt. But the little kid in me is excited about the possibilities.





# Where Are We Going?

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## What's Around the Corner?

Before we analyze where the practice is going, let's take a step back and ask the larger question—where are we going? Where are we going as the human race and as a civilization? Where are our science, business, healthcare and politics going? Where are we going as sentient beings attempting to create other sentient beings in our own image? Every technological advance, like a pebble tossed in a pond, reverberates not only in one area of our lives, but throughout them all. And this snowball tumbling down the mountain called technology grows and picks up speed at exponential rates. What will jobs, relationships, human interactions, communication and society look like in the not too distant future? Science fiction has lost the fiction aspect. What plastered movie screens and bestseller covers now is within our grasp. Manned missions to Mars, exploiting natural resources in space, androids that can think for themselves, extending life spans—we can see all this happen in our lifetimes. And these changes and others will affect everything, including the practice of law. To think technology will stay out there and not affect our practices is a recipe for letting technology pass us by and not learn from everything it has to offer.

## Where Is the Marketplace Going?

Amazon has redefined the marketplace and continues to do so. The online marketplace continues to displace and one day may largely replace the brick and mortar marketplace. Cyber Monday has become more attractive than Black Friday. Items we never thought of buying online—groceries, take out from restaurants, business suits, automobiles—are readily sold without stepping foot into a mall, car lot, restaurant or supermarket. The expense and delay in shipping items has been drastically reduced—free shipping and soon one hour delivery. The mall is being redefined. It's moved beyond mere retail to entertainment centers with restaurants, bars, movie theaters, bowling alleys, kids play centers, etc. More and more, malls have become entertainment centers and less and less places to shop. A time may come that mall stores will carry little if any inventory and will simply be a place where customers can try out items before ordering them from the store online. Some stores suffer this today. Book and electronic stores may enjoy a lot of foot traffic, but many of their customers are checking out items only to pay less for them online, often from competitors.

The marketplace will continue to transition from brick and mortar to online. Online shopping offers a greater selection for less. And with the development of alternative fuel sources, electric cars (possibly hydrogen cars) and drones, shipping costs will continue to drop, and those savings will be passed onto consumers. The post-modern mall will be much less retail



and much more entertainment based—a place for families, couples and teens to go and enjoy themselves.

And as we become more accustomed to purchase what we need online and to venture out simply for entertainment, we'll expect more and more of our professional services to be provided online. As lawyers, our websites will become more integral in attracting and interacting with clients. Just like today I can go to Amazon and buy just about any item I want, tomorrow, clients may visit our websites our purchase our legal services. The purchase of complex legal services one day may become akin to buying basic legal services today from the like of Legal Zoom. Or clients may procure bids from us online and compare them to bids they receive from other law firms. Possibly, one day there will be one or more Amazon-like sites where prospective clients can shop for the best price and best service for their legal needs, whether it's a commercial lawsuit, a patent infringement matter or a class action.

## Where Is Social Media Going?

Despite claims of fake news, manipulation by foreign governments, trolls, the devolution of public discourse and facilitating us to speak at and past at each other, social media is expanding. Social media companies are spending

billions on R&D to attract new members and engage its existing members. We can expect more and more of our colleagues, friends and family to join social media platforms and engage with one another more and more through their phones and computers and less in person. And how will social media keep us engaged? Many of us use social media because it allows us to be in contact with more individuals with less time and effort. With all the data these companies have about us—who our online contacts are, what we discuss with them, what we share, what we post, what we follow—the next step is for social media to handle some of these interactions for us. Of course, automatic rote communications like “Happy Birthday” or “Happy Anniversary” (which LinkedIn currently does) aren’t going to carry the day. But what if social media providers could intimate our diction, cadence, humor, sarcasm, content and connect with our contacts on our terms? In effect, what if we could outsource some of our social relations to artificial intelligence? Some of us, perhaps many of us, would do that. And if we did, how would that change our online interactions? How would we know that the comment we received or the conversation we’re having is with our friend and not a chat bot?

And how many more interpersonal interactions can social media cannibalize? In the interest of reaching out and affecting even larger audiences, will we prioritize our online relationships over our personal ones? Knowing our hunger for more followers and our desire for fame, popularity and a public voice, social media companies will find ways to make it easier for us to amass more followers while concurrently trying to find ways to imitate personal relationships online to satisfy our need for human interactions. The day may come where each of us can create a cult of personality online and believe it’s the same as the personal relationship we have.

Also, come to expect startups creating social networks for specialized groups and interests. Just as the generic dating sites were followed by specific ones—high earners or mature individuals or Christians or even farmers—expect social sites popping up for specific groups of individuals. Perhaps a social media site for diverse lawyers, or for product liability lawyers or for young lawyers. And if so, expect more of our business development to move from in person contacts to online ones.

## Where Are Interpersonal Interactions Going?

It’s common to see others at restaurants, parks, coffee shops and malls staring at their phones, oblivious to those around them. More and more interactions with others is through social media, online messaging and texts. We communicate through emoticons, memes, vines and abbreviations instead of words, and when we use words, they’re often typed, rarely spoken.

With so many social and news media communications bombarding our phones, we've come to expect communications to be pithy and catch our attention. Our attention spans have decreased, our ability to communicate in person has been undermined, and our desire to be plugged in at all times to everything has caused what pops up on our phones to dictate our conversations with others. I say none of this to pass judgment. These are observations of how our social interactions have changed. I expect these trends to continue and that more and more interactions will be done through our phones, laptops, tablets and watches. A generation grew up communicating this way and they will teach the next generation the same habits. And so as lawyers, we'll need to engage with our younger clients indirectly through technology and less and less in person. I expect that a day will come when there will be a backlash, and a ground swell and a recalibration, and we'll go back to sitting across from one other and talk, with our mouths and our facial expressions and body language. There is already a movement afoot to go back to simpler times where all we had to entertain us was each other. But this revolution to embrace the "good old days" will take time and until then, we'll need to learn modern communication techniques or we'll miss out on reaching prospective clients.

## Where Are Personal Relationships Going?

As technology pushes us further into isolation, replacing eye contact, body language and facial expressions with social media, online and smart phone interactions, personal relationships and communication will continue to change. We will become an extension of technology as technology becomes an extension of us. Being in the moment, fully focused on another, in person, face to face, talking about yourselves, your lives, hopes and dreams, laughing and crying, may become an anachronism. Relying on data to decide whom to date, where to go, what to buy, what to watch, even what to say and what opinions to have, may take all the guesswork out of daily living, but in so doing, will redefine what daily living is all about. Being human, and all the messiness that comes with it, will become something different. Some would say its humanity 2.0. Others would argue the contrary.

We humans, though, need and crave human interaction—human voices, human touch, human intimacy. A smart phone can't replace a spouse's touch, a child's giggles or a snuggle on the couch under a comforter. We still need to hear each other's voices in person or over the phone, and who doesn't love receiving handwritten letters from family and friends? Technology may limit personal interactions, but it will never stamp it out, and as more of us recognize the deleterious effects technology is having on our personal relationships, we'll push back to strike a balance. Technology

free zones, restaurants, retreats and vacations will take hold. Books, classes and tutorials will spread, teaching us what has been natural for eons—how to be human. Efforts will grow to rewire our minds back to what they were—away from attention deficit disorder, and multitasking, and anxiety—to a more quiet, restful time. And silence, whether natural (woods, mountains, beaches) or manmade (cubicles, pods) will be sought out. I can see libraries, with their librarians from central casting placing their fingers on their lips and shushing anyone who dares to speak above a whisper, become the new Starbucks.

And as lawyers, yes, we need to embrace technology. But if we can also embrace our humanity and provide colleagues and clients the human interactions we all desire as humans, those personal relationships will build bonds that will grow our firms and will grow our humanity.

## Where Is Media Going?

In the near future, there will be more media outlets, more specialized outlets catering to our individual interests and proclivities and more news hitting us faster and more often. There will be perpetual breaking news on the issues that matter to us. And there will be algorithms to spare, studying what interests us and giving us more of the same. Media, collectively, will cater to us, and they will work cooperatively to maximize their viewership and readership by finding those who want to read their reporting. Each of us will become a media focus center, and each of our needs, no matter how cerebral, unique, varied or eclectic will be met with no effort on our part. We will get the news we want, with the slant we want, from the providers we want, in the format we want, anytime we want. As lawyers and law firms, we will want to become part of this media stream so that prospective clients will receive a regular diet of what our firms and lawyers have to say and expose them to what we're doing.

Media has grown beyond network news and the *New York Times*. News is anything and everything, anywhere and everywhere. Law firms are already in on the act, with their blogs and websites, their LinkedIn pages and Facebook posts. Law firms will increase and improve their content, find new avenues to distribute it and will become part of this media explosion, finding ways to become part of the news that reaches clients they want to pursue and target. In-house counsel will find ways to get the news they want and only that news, and law firms will find ways to become part of the news stream in-house counsel want and will become integral in the daily news and information they receive.

## Where Are Movies, Music, and Books Going?

The trend for movies, music and books will be the same—more for less, available anywhere and at any time. Every movie, song and book will become available for a subscription price. The more you want, the greater the access, the higher the subscription price. There will also be niche subscription models—you pay X for every classical film from the 1930s and 1940s, you pay Y for every jazz recording, you pay Z for every young adult novel. All of human creation and imagination will be easily accessible. This universal availability, this one stop shopping, will affect all our commercial interactions. If we can get any movie we want for one flat price, why can't the same be true for professional services, including legal services? Will clients want all their legal services met by the same firm? Will they want flat fees for the legal services they're purchasing? Will corporate clients pay fixed fees for each case they assign? How about a much larger fixed fee for handling all their cases for a year? Knowing exactly what their legal spend will be and having one firm handle it all makes their litigation budget and litigation planning more predictable and easier to manage. Firms that can bear the risk of handling one, several or many lawsuits for flat fees, and have the manpower to do this across a wide array of litigation, will have an advantage in tomorrow's legal market.

## Where Is Privacy Going?

We have never shared more about ourselves with others. Through social media, we share our views and opinions, our interests and dislikes, our trips and our travels, our hobbies, our work, our families and our dreams. Google yourself. Amazing how much information about you is readily and publicly available, isn't it? Does privacy still mean the same to us? Does it mean as much to us? With the rise of terrorism, school shootings, and other threats to our safety, have many of us abdicated our privacy for security? And to avoid troubled students, employees and service providers, are we headed to an open book society, where to apply for admission to a school or for a job, we will have to make all our private emails, text messages, instant messages and social media posts available for a data scan and search? And will we be OK with this? Will this be the price we'll be willing to pay to participate in the marketplace?

We're headed to ever greater transparency when it comes to our personal lives. To ensure our safety, to secure the dream job, to pitch a client—we will reveal more and more about ourselves. No more secrets. No more skeletons in the closet. A light will be shined on us for all to see. We shouldn't be surprised by this. In exchange for free social media, we've agreed to turn over all our personal data so advertisers can determine how best to target



us. We've entered a social contract where companies give us free stuff in exchange for personal information which is sold to advertisers, who manipulate us by using our secrets to pursue their best interests. We struck this Faustian bargain years ago, and that train has long left the station. We will share a lot for free stuff, for access, for safety, for security - you name it.

And so our clients will come to expect more transparency from us. They will want access to personal information of the firm's lawyers. They will want the firm's financial information—what it charges whom, its profit per lawyer, the cost per case and per task. They'll want to know how you match up to other firms, the information from which these clients also have secured, mined and analyzed. They'll want to know if you, your firm and your lawyers are the right fit for them, how much you're making off of them, your inefficiencies—all of this so you can make just enough off of them to meet your needs and they can pay as little to you to meet theirs.

## Where Is Data Sharing and Analysis Going?

In exchange for access to even more of our information, companies will offer larger perks. Think about the monthly card that gives you unlimited access to movie theaters. What are you giving up? They track your movements after you leave the theater. You didn't know that? You agreed to their terms when you signed up for their service. We will get more and more of the stuff we have traditionally paid for at a reduced cost (or perhaps for free) in exchange for greater access to our personal lives, thoughts, opinions and feelings.

In addition to giving up more of our data, companies who compile our data will share our data with one another. Imagine a mega database where your social media, employment, health, insurance, viewing and reading habits are all coalesced. Imagine a database that has all of your information, and I do mean all of it. A database that knows you better than you know you. It's coming.

The day will also come when insurers, for example, will get past looking over their shoulders at their competitors and will get past the antitrust issues and will share their data of their outside counsel with one another and create a national database showing the analytics of every firm, every lawyer, every case and every task. An insurer will know which combination of partner, associate and paralegal to hire at which firm to handle a specific type of case in a specific venue. They will know which lawyers win before which judges, which motions succeed, what action steps advance the case and which ones don't. The analytics will tell them how you should run the case, assuming they conclude you should be assigned it.

And when will law firms get in on the act? When will law firms create online venues where they give away free continuing education to in-house counsel and insurance professionals, free publications, free software, free advice—in exchange for data mining of prospective clients they can specifically target through their marketing departments? We all want free stuff. When will law firms learn to exploit that desire by corporate clients? The first to market with this idea will have a huge advantage over its competitors.

## Where Is Artificial Intelligence Going?

Robots have long replaced humans on the assembly line. AI has its sights on replacing humans among the professional ranks. AI has beat Grandmasters and Jeopardy opponents, diagnosed medical conditions and has predicted human behavior. AI has the capacity to review, sort and analyze data infinitely faster than we can. How long will it be before they can view and react to data the way we professionals are trained to review and react to it? How much of what we do as lawyers is based on processes and reactions to circumstances which can be replicated by a computer? What if in addition to the case law and the statutes, and the case facts and data, our decision making process as lawyers could be reduced to data points used by AI? Most everything we do as learners we learned from reading, listening or



watching. Could that process be shared with and replicated by a computer? Could AI companies conduct exhaustive interviews of lawyers, follow them around, shadow them, question them, and reduce that information and those observations to writing, feed that to AI, and have AI learn from those lawyers and apply their experience and wisdom to real life legal issues, situations and cases?

So, will AI replace us lawyers? Some of us. Those of us doing commodity tasks or commodity work will be replaced. Many junior attorneys may be replaced. The day may come where partners will rely on AI associates for research, writing, basic case analysis, and other tasks that require less experience, wisdom and instinct. Perhaps an AI associate at trial could help with picking juries, technology, presentations, document management and what questions to ask witnesses. Experienced lawyers will still run the show, but they may have fewer associates and paralegals doing their assigned tasks and may rely more and more on AI to do the more routine work.

## Where Is Tech Going?

The training wheels are off. Technology is quickly catching up to even the most vivid of imaginations. Self-driving cars will happen. Drones will deliver packages. We will purchase tickets to travel in space. We will mine precious jewels and minerals from asteroids. G5 network. Dominance of solar power. Human organs created through 3-D printing. Vaccines for addictions. Prosthetics that interact with our neural impulses. Eye-controlled technology. Androids. Machines thinking like humans. Machines feeling like humans. A colony on Mars. The tech companies are investing billions in technologies that were once thought to be impossible. There are silicon billionaires right now, no doubt, investing money on immortality and time travel. The notion that if you can conceive it you can make it happen has taken hold and any self-imposed limitations have been cast off. There are law firm leaders and startups conceptualizing the next round of legal technology. There are blueprints somewhere of the first android lawyer. There are no limits anymore.

## Where Are Companies Going?

Companies who do not have a plan to sell all their goods and services online, and provide them for less and ship them in less time, and meet their customers where they are on their terms, won't survive. Identifying customers who want what your selling or conversely modifying what you're selling to give customers what they want will be crucial and therefore algorithms and data mining will move beyond the big companies to every company.

Companies will rely more heavily on Google, Facebook and others to get their products to customers who want to buy them. Marketing algorithms, with more and more data coming online, will become more accurate, more effective and more targeted. The day may come that an in-house counsel searches online regarding an issue affecting his company and within minutes starts seeing “ads” from national and regional law firms who can provide her a free answer and are available if she wants to learn more about their services. Tech companies will find ways to get firms in front of the eyes of decision makers who can hire them.

## Where Are Law Firms Going?

There will be more consolidation of firms, as they try to expand their reach not only nationally but globally. In so doing, much of the way the rest of the world practices law will start seeping into the US. Non lawyer ownership of firms, which has taken hold in other parts of the world, may become a reality in the US. There will be more outsourcing to legal professionals abroad who charge less. Just as the auto industry shipped jobs abroad to save on labor costs, law firms, under pressure by their clients, will hire more foreign lawyers and quasi-legal professionals to do research, write memos, motions and briefs and handle those aspects of the practice that can be done sitting in front of a computer. And of course, if jobs can be shipped across borders, the next logical step is to automate them and eliminate the labor costs altogether.

In addition to proliferation of the international mega firms, specialized, small boutique firms will take hold, experts in niche areas providing more personal service. Firms that fall in the middle, both in terms of size, geographic reach and expertise, will struggle. Not large enough to be everything, not small enough to be a niche firm nor flexible enough to be truly innovative.

Technology will redefine law firms, the services they provide and how they provide them. Firms that saw this coming and made the investment now will have the advantage in the marketplace. The ones late to the dance may find their dance cards empty.

Associates will be hired as much or more for their technology expertise as for their grades from law school. Firms will move beyond purchasing or leasing others’ technology to creating their own, and young lawyers who are equally versed in the law and programming will be sought out.

In short, law firms aren’t going anywhere, but they will look and operate differently.

## Where Is Mankind Going?

If we could, irrespective of whether we should, we would create a disease free world, end mortality, control our genes, manipulate our IQs, and create a man-made evolution of not only ourselves, but all animal and plant life. Left to our own devices, we would assume the role of Creator. We would change everything about us and everything around us. Why do we have to succumb to cancer? Why is being a genius an outlier and not the norm? Why can't we have the physical traits we want? Why do we have to die? Ethics will evolve to reflect advances in medicine and technology. Except for a few voices in the wilderness, the debate will shift from "why are we doing this?" to "why aren't we doing more of this?" As what we can do to human, animal and plant genes enables us to have the bodies, intellect and food we want, we will abandon any pretense of the ethics of human cloning and engineering, and forge into new areas to gain greater dominion over ourselves and all of creation. How do I know this? If we're honest with ourselves, we all know this.

## Staying Relevant

As lawyers, we want to remain part of the conversation. We want to predict and get ahead of the legal trends that will affect our practices and our firms. Clients are looking for every advantage in their businesses, and are focusing more on technology to provide them that edge. They want to know how your firm is relying on technology to save them money and provide them better work product. To remain relevant, firms have to ask themselves what technology suits us—what fits with our approach and culture and what improves our work product and efficiency at a price point where we see a significant return on investment? How can we better serve our clients on their terms? How can we better learn our clients' mission, values and culture to better serve their needs? That firms should be client-centric is a truism. Believing most firms are assumes too much. Learning the client's business, becoming their partners, going to the companies, learning what they do, how they do it and who they serve—this is what the best firms do this now. This will become the norm, and all firms will have to adopt this model to survive.

And how will firms get on and stay on clients' radar? A lot of what they charged for they will give away for free. There will be a race by firms to provide the most exhaustive and valuable content to clients and offer "sweeteners" through various forms of free legal advice to get their foot in the door and to remain inside. We see this now through firm newsletters, case updates, blogs, presentations and webinars. These efforts will increase, giving the advantage to bigger firms who can marshal greater resources to generate more content. Smaller firms, to compete, will redouble their efforts using old fashioned marketing techniques—meeting prospective clients

face to face. With so much focus on technology, some clients will find this refreshing. And so there will be a tension in firms—how much do we spend on technology and how much do we spend on the traditional marketing methods? Time will tell how far the pendulum swings in one direction or the other.

## What's Obsolete, What's Not?

What aspects of our practice and law firms have become obsolete, and what has not?

### ***Obsolete***

- Taking your time to respond to clients
- Disconnecting completely from work
- Ignoring technology
- Ignoring Millennials
- Ignoring Social Media
- Outdated websites
- Paper
- Large office space
- Large conference rooms
- Top heavy leadership
- Working mostly from our offices

### ***What Will Not Become Obsolete***

- Personal relationships
- Client-centric practice
- Creativity and imagination
- Superior work product
- Strong work ethic
- Collaborative, team based handling of matters
- Lawyers
- Clients who want to talk to lawyers

Some of what we will always be relevant and desired. Some of what we do will be shed off or will affect our bottom lines. I'm not telling anyone how to practice. What I am saying is how we practice has consequences, and failing to change, adjust and react will have dire ones.



## The Anachronisms

Relying solely on how we historically practiced law will become an anachronism. The traditional ways we research, investigate, analyze and brainstorm our cases will become anachronisms. Patience, solitude, quiet, relaxation and privacy will become anachronisms. Those of us who refuse to change will become anachronisms. Just like Sears, Toys R Us, Blockbuster and Woolworth became anachronisms, our firms will too if we don't adopt best practices and get ahead of marketplace trends before we become victims to them. As consumers, we expect everything on our terms. As lawyers, we have to study what our clients, the consumers, want and how they want it. Consumer interests and desires are changing. Their wants and expectations are changing. Great work product is expected. That is the floor. How we deliver it, what we charge for it, how much we charge for it, how we communicate, how we serve, how we relate, how we partner—these are changing and we must keep up. There is no Plan B.

## The Best of the Old and the Best of the New

As much as we want the advantages that accompany technology, we crave human interaction unencumbered by it. We want the latest and greatest, but we're nostalgic for the way things were. Old music standards are back. Turner Classic Movies, MeTV, Comet, Boomerang and other channels cater to the golden age of cinema and the shows we watched as kids. Keep clothes that have gone out of fashion long enough and they will be in vogue again. As much as we race toward the future, we yearn for the past. We download books and songs, but there has been a resurgence of community book and music stores. LPs are back. Community theaters are back. We want to go back to nature, grow our own food, seek holistic solutions to what ails us, and we want to cook our own meals. Think about Blue Apron. How many professionals have time to cook? How many professionals wanted to return to a simpler time when they could go home and prepare their own meals? But who has time to buy all those groceries? Prep all those ingredients? In comes Blue Apron and others and revive a mainstay from the 1950s—having dinner at home, around the dining room table like the Cunnighams did in Happy Days—but in such a way that fits into our modern schedules. Companies that redefine the traditional—yes a paradox—will achieve market success.

We romanticize a time when lawyers were more than just litigators, trial lawyers and advocates—they were lay priests and psychologists, friends and even family. They were counselors in every sense of the word. What if we restore that paradigm? What if clients trusted us not just with their cases, but with their businesses, their dreams and their goals? Taking the time to develop personal relationships with clients and be vested in them as

individuals is not only good business, but embraces the goals and aspirations of our oaths as lawyers.

## Unexpected Trends

There are trends we all see coming. And then there are the less obvious ones, even unexpected. These are a few.

Students will spend less time in school. As our educational system becomes more focused on preparing our students for the workforce and less on becoming well rounded, colleges will go from four years to three and law schools from three years to two, and that fourth and third year will be converted to apprenticeships at businesses and law firms with the promise of jobs at their conclusion. As technology leads to the manufacture of more complex hardware to meet our computing and technological needs, more blue collar jobs will require more training, and more of those jobs will remain in the US, with companies partnering with vocational schools to get them the semi-skilled employees they need to keep the assembly lines going. Our education system will become a de facto extension of the marketplace.

There will be a “cure” for technology-induced isolation. As we move toward more time on our devices, with an endless stream of news, programming, social media and music, and we become more disconnected from one another, there will be a spike in depression, anxiety and suicide, and an outcry in response. While some will turn to the pharmaceutical industry to treat technology-induced illnesses, many will turn to the obvious—time away from our devices. Meditation, mindfulness, adult summer camps, hiking trips, intramural sports. There will be a surge of activities in group settings where devices won’t be permitted or accessible. For our own sanity, we’ll flock to yoga centers and meditation rooms, rock climbing facilities and hiking trails where “scramblers” will be in place rendering our devices useless and we’ll let out a sigh of relief and wonder to ourselves, “wow, the park. I never thought of that.”

As we live longer, and the expected life expectancy starts to creep toward 90 and above, we’ll have a generation living well beyond retirement age. With our social security system already in jeopardy, we may be creating a geriatric sedentary working class and will have to find jobs for them to avoid taxpayers from supporting them for decades. What jobs will we create for them? How will we train them? How will they remain employable? Retirement may become a thing of the past.

As we make advances, we create consequences, both good and bad, that we will have to address as a society.

## What's Old Is New Again

As we rush headlong into the future, we'll hearken back to the way things were. Expect an uptick in neighborhood book, stationary and antique stores, as we read more physical books and spend more time in book clubs, handwrite letters to family and friends and buy old curiosities. Former fashions will return. Jazz and classical music will experience a greater resurgence. Live music in smaller intimate settings will gain popularity. As our education system continues to defund the arts for more work-related training, there will be a renaissance of private funding of arts education, with arts charter schools popping up throughout the country. Private "da Vinci"-oriented education where the arts, design, imagination and creativity will share equal footing with math, English and the sciences will take hold. This country has been the home of its share of geniuses. We will try to replicate them through our education system.

The best of ideas takes into consideration the old and new, the traditional and the modern. They borrow from what worked before and improve upon it to make it better. Revisiting the past will become the norm, and in so doing, some of the old ideas will become new again. Welcome to the future. Some of it will look very familiar.



# The Traditional Law Firm

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## How It's Structured

The traditional law firm is a top-down organization. The senior partners bring in business. They rely on junior partners to manage these matters, who rely on associates to handle the day to day activities. Law firms hire the best talent they can afford, and they develop that talent over years. Substantive tasks, like arguing motions or taking depositions, are reserved for senior associates, and at times, handled largely by junior or senior partners. There is a clear division of labor, where those tasks that if handled poorly, would have serious repercussions for clients, are reserved for those with the most experience to handle them. In so doing, it creates a caste system, with well-paid young associates ill prepared to step in the breach, if necessary. There is no question that these highly educated young men and women are extraordinary research and writers, and put out superior work product. But often they're relegated to that role too long, and aren't molded into well rounded attorneys. The hope is if they stick around long enough, they'll move into the senior associate and then junior partner ranks, and slowly but surely, be integrated into the higher echelons of the practice, where what they dreamed of doing—running their own cases—finally becomes a reality. In the traditional law firm, everyone knows his place and everyone waits his turn.

## How It Operates

Law firms operate by serving their existing clients while securing new ones. They provide superior work product to existing clients and respond to their needs while relying on their expertise and marketing efforts to secure new clients. To remain viable, they need a regular influx of new matters as they wind down existing matters. Some enjoy handling complex matters that take on lives of their own, requiring multiple attorneys to work on them for years. Most firms, though, handle matters that have a standard shelf life of 12-24 months, from inception to conclusion, and understand that as they tackle these cases and focus on resolving them on the best terms for their clients, they must also focus on securing the next case and the case after that.

Law firms have two drivers—offering superior work product and leveraging their reputation of superior work product to secure more cases. There are those at the firm who focus primarily on producing superior work product and those who focus primarily on bringing in new matters based on this superior work product. This model has been in place for decades and remains the dominant model for law firms.

## How It Serves Its Clients

Good law firms are good problem solvers. They analyze their client's cases and provide game plans on how to win cases on the client's terms. They have strong work product, and they're aggressive, creative and proactive to resolve client matters on the best terms possible. They achieve results. In the pursuit of great results and perfect work product, however, some firms are not as efficient as clients would hope. Some take longer than clients expect to research an issue or draft a motion. Others have too many sets of eyes reviewing and approving everything. Because most firms still charge by the hour (albeit at reduced rates for preferred clients), there aren't built in incentives, other than upsetting the client, to keep the total number of hours billed in check. Many firms know when a monthly invoice is too large and will reduce it, but this is based more on gut feelings than any verifiable analytics as to how much should have been billed that month.

Billing hourly, with the best personal at every level, with the associated cost, leads to great results, but at a price. The care and feeding of associates with Ivy League degrees come at a cost. The salaries and bonuses of junior partners who are experts in their fields come at a cost. Up until recently, most firms have been able to pass this cost wholesale to clients. Clients, understanding that results cost money, have been willing to pay. Clients have been wondering, though, if superior legal services could cost less, and how firms could assume some of the clients' risks in the attorney-client relationship. Clients are exerting influence to change this model to better serve their interests and changing how law firms serve them.

## How It Compensates

Generally, firm compensation is driven by revenue generation. Those who bring in the business are rewarded most handsomely. Those are followed by experts in their fields who manage matters, followed by those who handle the day to day work on matters. These categories are euphemistically referred to as the finders, minders and grinders. This goes back to the top-down model, with the senior attorneys bringing in cases, junior partners managing them, and associates working them. Because compensation is driven by business generation, one would think everyone in the organization would be driven to invest their time and effort to secure clients. Interestingly, that's not typically what happens. Associates, given the choice to make a little more by billing more hours as opposed to the promise of making a lot more by trying to bring in their own clients, generally opt for the sure thing—bill more hours and make more money. Investing time now to make more money next year, or perhaps years from now, is not sufficient incentive for most associates to make an investment in business development.

In fact, activities that benefit the firm but don't result in immediate benefit to its attorneys are also often overlooked. Why take the time to develop an associate training program, develop the firm's technology or create the copy for the firm's website if there is no immediate compensation for these activities? And so many firms end up outsourcing these activities to nonattorney employees or third party vendors. These folks, no doubt, are skilled at what they do, but they're one step removed from the attorneys who are best situated to address these issues. More egalitarian models that compensate behavior that benefits the firm as a whole but that do not immediately result in new clients or more cases have not taken hold.

## What It Does Well

Firms are good at working up cases and bringing them to a conclusion. Complex litigation firms can handle complex, long term cases. Volume firms are good at handling simpler, larger number of cases. They can tackle any problem, offer a variety of solutions and provide clients a roadmap on how to achieve those solutions. Firms are problem solvers. They're skilled at analyzing data, facts and the law. Law is unlike engineering or medicine. There are no equations. One plus one doesn't always equal two in the law. Things are far from black and white and any attorney who "guarantees" an outcome is a fool. Based on all the uncertainties, good law firms, through experience, training and skill, can suggest reasonable outcomes. As lawyers, we'd make terrible rocket scientists. With all the variables and uncertainties we're accustomed to, we would never have the precision to get the shuttle off the launch pad. We've learned to read the tea leaves, and partially through our craft, and partially through our art, we generally provide solid advice for our clients. But there is generally a "butt," and "on the other hand." That's how law works.

## What It Can Improve

Clients want more predictability and want to spend less for it. They want lawyers to develop the means to secure data, analyze it and predict outcomes based on algorithms, not experience. They want more than a prediction that they have a 60% likelihood of winning at trial. Their response? Why 60%? What hard data is that based upon? Not as wishy-washy as 50%, but close. Clients use analytics to attract customers, gauge their interests, address their needs and complaints, plan inventory, sales, etc. They have seen how a surge of data and how the mining of that data gets the answers they want in most every aspect of their businesses and are left wondering why the same can't be true in their legal matters. Law firms can explore how they can use

current technology and create new technology that gathers, reviews and analyzes data regarding how certain judges rule on certain motions, how certain lawyers do handling certain motions before certain judges. How much juries are expected to award in a given jurisdiction for a specific type of injury. Clients are looking for lawyers to secure enough data and the right data and run the right algorithms to reach conclusions that are statistically sound. Clients want us to turn the art aspect of our practices into a science. There are companies and law firms diligently working on this. My example of knowing how a given judge will rule in a given type of case is being done by Premonition, which has evaluated court data in Miami Dade County in South Florida to determine how certain lawyers will do before certain judges in Miami. That's just the beginning.

In addition to greater predictability, clients want to drive down their legal spend. Again, through analytics, they want to know which firms offer them the most bang for their buck. Many insurers who handle large litigation caseloads have amassed detailed analytics on their outside counsel. They know which firms provide them the best services at the best prices. They can even say which specific attorneys at specific firms provide the best services, and can see outliers of defense counsel who cost them too much. Law firms have to do better to do this internal auditing to eliminate any inefficiencies, incorporate processes that streamline litigation, and create collaborative efforts to brainstorm creative ideas to resolve matters more quickly and less expensively.

## The Challenges It Faces

The market pressures other industries have faced for decades have finally caught up to law firms. Corporate clients are applying pressure on firms to reduce costs and reduce them drastically. Clients are shifting their risk to law firms through flat fees and other alternative fee agreements. Clients are applying analytics to identify the best lawyers offering the best prices. Firms will have to reduce rates, reduce overall fees, reduce overhead, and become leaner without becoming anorexic. Firms can remain profitable, but they'll have to do so in an environment where they're expected to do more with less. Leveraging technology, outsourcing, and creativity will be necessary to look at old problems in a new way. Also, clients crave results. Firms, under the microscope to deliver results with clients that have the analytics to know not only which firms, but which attorneys in those firms, deliver results, will dismiss underperforming lawyers and develop processes to increase the likelihood of positive results at hearings, depositions, mediations, arbitrations and trial. More for less will become the mantra.



## It's Future

Some futurists have been writing the law firm obituary for more than a decade. I agree with them that many firms will perish under their own weight of excessive overhead and salaries. But many are going to figure out how not only to survive, but thrive, in this new marketplace. In Twain's words, the reports of the death of the law firm are greatly exaggerated. Law firms will look different. They will either be quite large or quite small. We'll see more niche practices and more lawyers specializing, some hyper specializing. Less penthouse space and corner offices and more open work spaces and home work stations. Less high base salaries and more "commission" styled salaries based on collections and revenue generation. Just as clients will pass their risk to firms, firms will pass their risk to their lawyers. If lawyers want a fancy office, they'll have to pay for it. If they want a legal assistant, they'll have to pay for it. Firms will become physically decentralized while remaining cohesive to ensure quality control and generation of ideas to leverage anything and everything to make more money with less resources. Most every other sector in the marketplace is already doing this. We just need to catch up.

## Change Is Coming

Expect seismic changes in the legal industry driven by technology. The changes are already underway. Clients, who have experienced this change at their companies are trying to figure out how to apply it to you and your law firm. Doing things the old way isn't going to cut. Expecting this will be the next generation of lawyers' problems isn't going to cut it. This is no time to hide your head in the sand. The hoof beats are growing louder. If you take anything from this book take this—we're on the cusp of a new age and new reality and the practice is radically going to change. The way you practice is going to be very different and you're going to experience that difference sooner than you expect. Buckle up.



# Starting at The Beginning—The Future of Law Schools

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## **My Experience at University of Miami Law School—Circa 1994–97**

I started law school in the Fall of 1994. In college, I had considered careers in political management, creative writing and law. As a child, I watched Arthur Miller debate law on PBS and watched top trial attorneys present mock closings on WGN in Chicago. And of course, I watched reruns of Perry Mason and later followed shows like L.A. Law. So, based on my misguided view that being a lawyer was little more than arguing before a jury and yelling “Objection!” off I went to the University of Miami Law School. I earned a scholarship, it was close to home (15 minutes to be exact), and it seemed like the safe bet compared to running political campaigns or writing the Great American Novel. And besides, there would be all that practical, in the trenches learning. Boy, was I in for a surprise.

Let me preface my comments by saying that UM was a great law school. It had a great administration, professors and facilities. Now that I’ve gotten that out of the way, UM was a traditional law school for the time. A lot of theory, Socratic Method, old cases from casebooks filled with old cases and a lot of head scratching by me wondering what any of this had to do with getting a job or practicing law. I swear, there were times I was sitting in class, looking around, saying to myself, “this is law school? This is going to be prepare me for the real world? I must be missing something? Let me just keep my mouth shut and play along and not sound like a total idiot.”

They say you don’t learn how to be a lawyer in law school. No truer words have ever been said. Law school’s objective was to teach us to think like lawyers. I even had a mandatory class as a 1L whose entire purpose was to think like a lawyer. The problem was that lawyers don’t think like academics. They think like business people and trial lawyers, they think like street hustlers and fighters. We can teach others how we think, but it’s not going to come from a case book. Back then, law schools simply didn’t know better.

## **My Life as a 1L**

Ah, life as a 1L. What did I get myself into. It was as if a starter pistol rang the first day of class and everyone sprinted to make the Dean’s List, Law Review, Moot Court, top of the class, you name it. I wasn’t sure the significance of any of it other than these were the pathways to get a job and I went to law school to get a job. But the dynamics were all wrong.

Let’s start out with UM’s grading policy. Back then they had a hard C curve, meaning if you plotted out a bell curve of where all the students’ grades would land, most would land on C. I’m no Snowflake and I don’t believe in participation trophies, but if you create an environment where you’re

not competing against an objective standard for a good grade but rather against your classmates, then suddenly they become obstacles to good grades. Instead of making my classmates collaborative, they made them cutthroat. That's not how good businesses or successful law firms operate. They were molding law students into jerks who would grow up to be lawyers who were jerks. Now, I understand that litigation is win-lose, that it's a chess game where I'm plotting checkmate, but creating an environments where law students see each as other as competitors as opposed to a team does not make good lawyers. You get the behavior your reward. That's how we train dogs. Law students aren't much different. You can talk how great your education model is all you like but if you're rewarding attorneys to look out for themselves to the detriment of their peers, don't be surprised if you're breeding a generation only out for itself.

And then there was the lack of practical skills. No one ever taught me how to be a leader, a collaborator, a marketer, a business person or how to network. These are all skills you learn in business school, but not in law school. Law schools would counter by saying I should have gone to business school. By saying that, they prove my point. At the end of first year, I had great grades and a summer job but had hardly advanced the ball when it came to learning to be a successful lawyer. But man, could I Bluebook.

## What I Learned

I have to hand it to UM. They made great research and writers. I could research and write the hell out of any issue or topic. They taught me how to spot issues, how to research them and how to analyze them based on my research. And did I mention my Bluebook skills? They were good at creating research-and-writing associates, which is what big firms wanted. They would have large incoming associate classes who would be assigned endless research projects. There are two problems with this model. Research and writing is only one aspect of the practice. Second, there were only so many big firms hiring so many associates right out of law school. Many small and medium sized firms were looking for new associates who had business savvy and could hit the ground running. Law schools weren't producing those types of candidates. Since no law school was producing these types of candidates, smaller firms held their noses, hired law student graduates and threw them in the deep end of the pool. It was trial by fire. Walking the tightrope without a net can be both nerve racking and exhilarating. Often these were the B and C students who didn't land the Big Law jobs and had never bought into the rat race to the top. They intuitively knew there was more than spending all their energies in securing the best grades and many did quite well at these small firms. Today, many of my most successful law

school classmates started at these smaller firms and are among the great trial lawyers and rainmakers. Some of them are the biggest donors to UM. The irony isn't lost on them.

To UM's credit, they were one of the first schools in the nation to develop a trial skills and internship program where students received real trial experience. I participated in the year long program as a 3L and I loved it. I learned how to try cases. That's what law school should have been all along. But we'll get back to that later.

## What I Didn't Learn

After graduating UM in 1997 and passing the Florida Bar, I started as a first year associate at a national defense firm. Good firm, good lawyers, good reputation. To put it mildly, I didn't know what I was doing. The firm, having hired associates right out of law school each year, knew that there was no reason for me to know what I was doing. I couldn't even find the courthouse, file a pleading or operate the copy machine. The legal assistants knew how to be a better lawyer than me. I handled my share of research and writing projects, but yearned to do more and wish I had the tools to do more. I eventually figured it out and left the firm within a year to join the firm I'm at now—a boutique litigation firm where experience was in abundant supply and do to its size, it ran like an apprentice model where I worked alongside the two partners to learn the art, craft and business of law. Law schools then didn't teach you how to be lawyers. That's what law firms were for. It was a short sighted view and one that would undermine the viability of many law schools once the Great Recession hit. They didn't see the market crash of 2008 and how it would redefine law schools and the practice. No one saw it coming.

## Getting a Job

The job market was tough for law students in 1996 and 1997. Law firms were slashing their summer associate programs and they were moving away from hiring lawyers right out of law school. It turned out to be a cyclical market adjustment and the jobs returned a few years later, with associate salaries spiking. But for law students graduating in the late 1990s, it was a wakeup call. Simply graduating with honors wasn't enough to secure you a job. Law students turned to their career planning and placement services and often found those services lacking. They needed more than help with their resumes and interviewing skills. It doesn't matter how nice your resume looks, if no one is interested in reading it. The downturn caught everyone by surprise.

But law schools didn't learn their lesson. So when the Great Recession hit, law schools were caught flat footed.

Looking back, if I had a wish list for UM and other law schools, it would have included:

- Mentoring programs with practicing lawyers
- Organizing student programming with voluntary bar associations
- Organizing joint events between law students and law firms
- Providing UM alumni as mentors to help students develop their soft skills
- Leadership, business development, technology, and public speaking seminars

If law schools had behaved more like business schools, its students would have been better prepared for the job market.

## What Law School Got Right

Law schools understood the importance of a liberal arts education. Law schools taught their students different areas of the law, even if those students never anticipated practicing in those areas. Law schools exposed students to different approaches to jurisprudence and legal analysis even though most students would land jobs where most of this analysis would be inapplicable. Law schools understood the importance of being able to think,



and analyze and create over a broad spectrum of thought, practice areas and legal matters. Great minds often put two different things together, that generally don't belong together, and create something new and wonderful. To do this, they had to have, as a foundation, a broad spectrum of knowledge, ideas and thoughts from which to draw. Law schools understood that. Where they failed was they focused on this often to the exclusion of focusing on the practical, business side of law, as if they were above the pedestrian day to day practice. You learned that out there, in the real world. Here in law school we think, we debate, we create. You'll learn the baser aspects of the practice soon enough. What they did do is teach you how to think for yourself. We don't think enough as lawyers. We don't go beyond what we know and what we do to explore other options, other possibilities, other worlds. If law schools could meld this liberal arts approach to education with a more pragmatic, business-oriented approach, not sacrificing either, but allowing each to work off the other, that would be the school we need for today and the future.

## What Law School Got Wrong

To become a lawyer, you had to go to law school, and so many of us wanted to be lawyers. If you were bad at math and science, and you watched your share of lawyer serials on television, law school was the obvious choice. And so, with a glut of applicants, and being the only show in town to get to sit for the bar exam, law schools got comfortable, way too comfortable. They were selling a product everyone wanted to buy, the demand exceeded the supply, and there seemed no end in sight to the money pouring in through tuition. More and more colleges saw law schools as cash cows and wanted in. When you think about it, compared to other graduate programs like medical schools or engineering schools, the startup costs for a law school are modest by comparison. You need a law library, law professors, classrooms and you are well on your way to starting a law school. So many students in search of their golden ticket, willing to pay law school tuition for the chance to make it as lawyers. The problem was law schools overlooked a central tenant of capitalism—competition. Without it, their product never got tested or challenged to ensure quality control. Sure, law schools competed against one another, but for the most part, they all shared the same model—focus on academics, not business. Teach law, not how to be a lawyer. This was the way it was always done and there was no reason to believe it would change. And without competitors, there was no reason to challenge themselves to innovate, to evolve, to adapt, because there was nothing forcing those changes. They, and the rest of us, were about to get a rude awakening.

## The Great Recession

The economic crash was surreal, wasn't it? Let's not mince words. That's what it was. If the American government hadn't stepped in and subsidized the entire banking sector, the world economy would have collapsed. Let's pause and reflect on that for a second—it would have collapsed. A large fraction of the world's wealth disappeared, just like that. Poof. There didn't seem to be a bottom. Looking back now, with today's strong economic drivers and resurgent stock market, I don't remember just how bad it was, but was it bad. If you were in real estate, you were out of work. If you were in construction, you were out of work. If you were in the financial sector, you were out of work. And lawyers would soon find that they too would become a casualty of the new economy. A lot of legal work dried up and firms laid off staff, paralegals and associates. Senior partners were taking early layoffs and underperforming partners were being laid off. Our offices overlooked the Brickell area in Miami. One day construction was booming. One day it stopped. All the cranes and construction materials and workers and hard hats and food trucks disappeared. It became a ghost town. So eerie. The legal sector hasn't been the same since.

## Where Did the Jobs Go?

If you graduated law school after the market crash, you had a heck of a time finding a job. Many firms enacted hiring freezes. If they did hire, they preferred to hire experienced lawyers, not recent grads they had to train. Recent law school grads become *personae non gratae*. Our firm, which received its share of resumes over the years was suddenly flooded. And it just wasn't the number of resumes. It was the desperation in the cover letters, emails and hand written notes we received. These recent grads wanted a job, any job, for any salary. Many firms smelled the desperation and took advantage. They dropped their starting salaries, hired contract lawyers and hired lawyers as paralegals. Less salary, fewer benefits, less overhead. Firms wanted to save money and found recent grads at the top of their class willing to work at firms and for salaries that were unimaginable just a year or two earlier. That dream job became a nightmare. Recent grads were earning much less than they had hoped. That didn't stop banks from pursuing payment of student loans. Lacking opportunities, many attorneys started their own firms, handling any case that came through the door for whatever a client was willing to pay. This lowered both the quality of overall services and the willingness of clients to pay a fair price for legal services. There was a glut of lawyers and supply outpaced demand.



## How Law Schools Lost Their Way

As the stream of college students applying to law schools decreased, law schools had a choice—maintain their standards and suffer decreased enrollment and all the financial issues that accompany that, or lower standards to maintain enrollment. Some law schools kept their standards and cut back on services and dug in to weather the downturn and some, to their credit, became creative to better serve their students and make them ready for the new economy. Others, well, refused to take a hit. They started admitting students that had no business in law school and didn't do the necessary work to prepare them to pass the bar and join the workforce. If you ask them, they were providing opportunities to those who never would have had a chance to chase their dream to be lawyers. If they were being honest with themselves, they were encouraging young men and women to assume huge debt loads to pursue jobs that didn't exist with degrees with diminished value because of their lower standards. They were creating a perfect storm that wouldn't be felt for a few years, but in the interim, they were keeping their doors open and collecting large tuition checks.

Law firms had to adjust to the new economy and did so in a hurry. There was a lot of pain. Law schools tried to avoid the pain and hurt their students in the process. Instead of cutting their class sizes or throwing in the towel altogether, they marched forward, relying on student loans to keep their doors open, ignoring the crushing debt they were encouraging unqualified students to pursue. They became no better than the notorious for-profit colleges who encourage students to secure large loans for meaningless degrees. Legal education had gone terribly wrong.

## Student Debt

You think we would have learned our lessons from the housing crisis. Not everyone who wanted a home loan should have received one. In fact, many should not have. Easy credit for everyone crippled this economy. We made the same mistake when it came to student loans. Students were borrowing too much in hopes of paying it off with high paying jobs that no longer existed, and were pursuing careers they should not have been pursuing. As a society, we should have seen this coming and stopped it. Some argue that law schools had a moral obligation to prevent this tsunami of debt from occurring. But again, banks were happy, institutions of higher learning were happy, and students, in pursuit of the American Dream, were happy. And how did it play out? We have scores of graduates with staggering student debt without high paying jobs to pay it off. How is this new generation going to have the credit to buy new cars? Or buy their first house? It's easy to think it's their problem. But when this new generation can't afford or

have sufficient credit to buy cars and houses, what do you think is going to happen to our economy? Student debt is going to be the genesis and catalyst for the next recession which will affect all of us. The chickens will come home to roost.

## Students Got Hoodwinked

Certainly students considering law school had a duty to do their due diligence and decide for themselves whether law school would be a good investment. Alongside pursuing a degree in medicine or engineering, a law degree historically was seen as a safe bet, but the economy had changed and this conventional wisdom needed to be challenged. Yes, students could have done a better job investigating whether a law degree was worth it. But it didn't help that law schools were pushing their agenda and were trying to fill seats. Granted, there were law schools who warned prospective students about student loans, the weak job market, the diminished value of a law degree—in short, what they were getting themselves into. But there were other law schools that were too happy to gloss over all this and encourage students to dream and dream big about their futures as successful lawyers. The irony that incoming law students, who were taking contracts their first semester in law school, didn't understand what they had signed up for isn't lost on me, but nonetheless, they didn't, especially first generation law students (some of whom were the first to attend college in their family) who didn't have the social network to counsel them about whether going to law school was even a good idea. And so yes, we can blame the students to a degree, but to a degree, they got hoodwinked.

## Law Schools Ought to Be Ashamed of Themselves

Law schools could have done a better job regulating themselves. They could have done a better job informing prospective students what life would be like after graduation—law school loans, poor job market, mounting bills. In a free market, we place the burden on the consumer—caveat emptor—buyer beware. Many don't feel sorry for students who signed up for law school after the market crash. They should have gone in with their eyes open, some would say. But law schools had a burden too. They too had a duty. They knew what they were selling and some misrepresented the product. What students needed was greater transparency. What law schools needed was more honesty—honesty with students and honesty with themselves. Perhaps we just didn't need law schools to serve as many students anymore? Perhaps we needed fewer law schools? Maybe we needed to reduce law school from three years to two? I don't remember law schools considering these options.

Lawyers have been saying for years there are too many lawyers. Maybe law schools should have been better listeners.

## **Law School Today—Is It Still a Wise Investment?**

So, is law school still a wise investment? Well, that depends. What law school are you talking about? How much debt will a student incur there? What is a given law school doing to ensure its students pass the bar? Get a job? What's their bar passage rate? What percentage of their students secure real lawyer jobs—not jobs working retail at the local mall? State law schools, with lower tuitions, and specifically state law schools who emphasize a curriculum geared toward passing the bar and provide support services to help their students be prepared for the work force and get jobs, are still a good investment. Private schools, particularly lower tiered ones, without a proven track record of high bar passage rates or high career placement rates, are not. We, as a profession, could lop off a percentage of the bottom tier private law schools, and improve overall. We have too many law schools. We have convinced too many students to pursue a career they have no business pursuing at a cost they have business incurring. Not everyone was meant to be a lawyer. Even some who were meant to be lawyers weren't meant to be lawyers. The right student at the right law school paying the right amount in tuition makes sense. Otherwise, it does not.

## **What Law Schools Need to Do to Thrive**

A successful law school model isn't hard to formulate—getting students ready for the legal marketplace at a reasonable cost. It's really that simple. Prepare law students to pass the bar and succeed in the workforce while they incur as little debt as possible. Redefining the typical law school model that takes up less space, eliminates law libraries, reduces tenured professors and their accompanying salaries and benefits, and focuses on remote learning, can dramatically reduce the cost of law school while maintaining profitability. Imagine law schools costing 20–40% less? While costing less, law schools have to update their curriculum to teach students how not only to think like lawyers, but be prepared to practice like lawyers. The old curriculum has to be tossed out and the new one has to be focused on teaching students not only the law and how to analyze it, but how it's applied in real cases and how students can use it to their future clients' advantage. Some of the expenses saved on libraries and large law school campuses can be redirected to teaching skills to land that first job and create networks for students to meet and be mentored by those who can employ them. Law schools have to, in a sense, adopt many of the traits of vocational schools so their graduates

can contribute to their employers and make them a profit off their work on day one.

## **What Law Schools Can Learn from Business Schools**

Business schools create business leaders and managers. They provide the skill set to jump into the workforce and exert positive change. They create collaborative environments and they foster not only the skill sets, but the personality traits and behaviors required in the workforce. Students in MBA programs learn how to work in teams, learn how to foster ideas in themselves and others and transform them into reality. They learn to recognize opportunities and make the most of them. It's much more than theory or abstract ideas. It's real life, flesh and blood business—trying to make a new venture into a going concern, turning a going concern into a flourishing business, and transforming a flourishing business into a worldwide powerhouse. It's a model law schools can learn from.

Law schools have to see themselves as equipping their students with the skill set necessary to hit the ground running when they start their careers and provide them the skill set to land their first job and operate both as a lawyer and a business person who works in the service industry. If a law school created a curriculum where upon graduation their students knew the fundamentals of handling legal matters, how to run a law firm, how to market themselves and their practice and understood that we are in the service industry and that we are our client's partners, working alongside of them to achieve their goals, both law students and employers would flock to it. If law schools created business oriented lawyers, business savvy lawyers, client-focused lawyers, they would create lawyers every employer would seek out and hire. This is the model they should pursue.

## **Returning to an Apprentices System**

There was a time when lawyers learned to be lawyers by being apprentices at law firms. Law education would greatly be improved if the third year of schooling was replaced by an apprentice program, where some book learning would remain in place, but most of the third year would be spent working at a law firm, in house, governmental entity or public interest group practicing law. A curriculum would be set up to ensure students learned certain skills and would be graded upon learning those skills effectively. For example, an apprenticeship at a law firm could include how to draft a motion, how to draft and respond to written discovery, how to argue a motion at a hearing, how to take and defend a deposition, and so on. The law firm would

commit to teaching basic skills to a 3L. In return, the law firm would have a free intern and a potential hire upon the student's graduation. The student would learn marketable skills and would be working closely with a potential employer. The overhead to run such a program would be much less than paying tenured professors to teach 3Ls in a classroom setting. In fact, much of the cost could be shifted to the entities training the law students who are getting a year's worth of free labor. Some schools already offer pre-trial and trial skills programs as part of their curriculum. This would be taking that model to the next logical step. This solution would teach law students to be lawyers and reduce overall law school tuition. The first two years could be focused on teaching all the core courses they'll need to know to pass the bar.

## **Focusing Education Toward Getting a Job**

Let's face it. Law students go to law school to get a job after graduation. Some may attend for the academic challenge that accompanies a law degree, but most are thinking ahead to practicing law, whether in the private, public or public interest sector. If they believed they couldn't get a job they wanted, they wouldn't have signed up. So law school needs to be geared toward serving their needs to become employable in the eyes of their prospective employers. Law schools need to partner with local employers and survey them regarding what skills they want and how they believe those skills can be developed in law school and develop a curriculum around that. Yes, you still teach the basic law school courses—contracts, torts, evidence, civil procedure, criminal procedure, etc., but within those courses, you focus on the law that practicing lawyers focus on and the practical aspects of those fields. How is evidence used at trial? How do you get evidence in or keep it out? How do you build a case on the evidence you have? Goodbye casebooks. Hello materials that combine the black letter law with its application in real life practice. And how about having professors who are practicing lawyers and can teach based on their real life experiences? What if we moved from full time professors to all part time professors who are also practitioners? They get paid less. No benefits like health insurance. This brings law school cost down. And you have folks who try cases and handle caseloads and deal with clients and who can teach students to do the same within the context of the classes they're teaching. Yes, it is a complete reimagining of law school. It's about time.

## **Teaching How to Be a Lawyer**

The practical aspects of law can be taught in law school. Law schools already teach research and writing to their 1Ls. Instead of making it a one

year class, though, research and writing should be taught throughout the three years, so law students not only learn how to draft memos and briefs, but also written discovery, respond to written discovery, motions, including motions to dismiss and motions for summary judgment, and letters to clients and opposing counsel. Teaching lawyers how to write persuasively in plain English is currently taught in law schools, but not enough. Research and writing should be a three year commitment in law school (with the third year writing assignments complementing the apprenticeship I discussed earlier).

Also, more business skills should be taught, particularly how to run a business and how to market. Even students planning to work for the government or public interest can benefit from these skills, because one day they may be in charge of the offices they're working at. These skills don't have to be taught in formal class settings. A series of guest lecturers could suffice. If we're already cutting off a year of classes, we can't afford to cut off more, so this business education would be conducted in the evening through audited seminars or presentations. No grades. You attend, you pass. You skip, you fail.

## Teaching Skills

Professors can teach skills alongside the black letter law in their classes, particularly if those professors are actively practicing law. And of course, employers would teach law students skills during their third year apprenticeships. The focus from day one of law school should be equipping students with a lawyer's skill set so they are employable the day after they pass the bar. Many firms no longer hire law students out of law school because they don't want to invest the time and money training them. If, upon graduation, law students have already gone through this learning curve, they will be much more attractive to employers.

## Teaching Technology

Technology has changed and will continue to change the practice. Several law schools have already begun teaching their students where the practice and technology intersect, and some have taken it a step further, and have not only emphasized technology in their curriculum, but have built their curriculum around it. This is the model for the future. Law students need to learn the current technology, anticipate the future technology and partner with clients to develop new technology that best serves their legal needs. A time could come where joint law and technology degrees become the norm. Leveraging technology to maximize quality of services while reducing costs



is what clients want. Law students trained to do this will be in high demand and accordingly will flock to these law schools.

## Partnering with Law Firms and In House Legal Departments

There are several ways law schools can partner with law firms and in house legal departments, including the following:

- Train 3Ls through an apprenticeship program
- Inform law schools what they should teach and how they should teach it
- Mentor law students
- Sponsor functions where law students can network with their lawyers
- Teach business skills at law schools in the evenings through seminars or presentations
- Offer Q&A for law students to answer their questions about life after law school
- Volunteer to help law students with their research and writing skills

There are many lawyers who are happy to help struggling law students. Law schools need to do more to partner with lawyers to help their law students.



## Complete Transparency

Law firms need to be completely transparent with law students. What is the average amount of money their students borrow? What are the interest rates for these loans? How long does it take pay off these loans? What percentage of their students secure jobs within six months of graduation? What do they earn at these jobs? How long do they stay at these jobs? It's not enough for law schools to say this information is not readily available. They have to spend the time and money to secure this and more information so incoming students can make informed decisions before committing to borrow tens of thousands of dollars. There is so much data that can help students decide which law school to attend or whether to attend at all. This data should be secured and freely shared.

## Let's Face It—Too Many Law Schools and Too Many Students

Over the long term, conscious efforts need to be made to reduce the number of law schools and the number of law students at the remaining law schools. Underperforming law schools should be provided a smooth transition from full operation to closure to ensure as soft as landing as possible for their staff and faculty. Pressure should be applied to the remaining law schools to reduce their incoming class sizes. Maybe federal statutes or regulations are necessary, because public pressure doesn't seem to be doing enough. Perhaps more emphasis starting in elementary school through college on STEM education and training to redirect would be law students to other professions. More should be done to help students who choose law school as their default to discover what they're really good at and what they would truly enjoy. Quite frankly, too many lawyers didn't go into their profession with their eyes wide open, nor did they appreciate what they were getting themselves into, and would have been better served choosing a different career path. These folks need to be identified early in the educational system and steered toward other careers.

## Additional Law School Oversight

It may be time for more oversight for law schools to ensure they don't grow too big too fast, don't over promise to students, and provide a curriculum and extras that better prepare their students to pass the bar and join the workforce. Perhaps the ABA can take a more active role. Perhaps the federal government could do so. Perhaps more education in high school and college about what to expect in law school and beyond could help. Something is broke in our legal education system and simply having more folks run up the

tower to ring the bell isn't working. Perhaps law firms and in-house counsel departments could create a list of recommendations to follow, and those law schools who do, receive an official endorsement from them. Perhaps it's a combination of all of these. Whatever the possible solutions, time needs to be spent exploring the issue of additional oversight.

## **There's Time for Law Schools to Thrive**

We're always going to need lawyers and we're going to need law schools to educate them. And if law schools focus more on the business and tech of law, they could undergo both a renaissance and resurgence. Creating a graduate degree that takes the best of law, business and technology would be both attractive to employers and students. Law school hasn't changed much over the decades. It's time it does and by doing so, it'll prepare the next generation of lawyers to better serve their clients, whether in the private or public sector.



### How Millennials Are Changing the Practice

Millennials have changed how we shop, socialize, interact and how we do business. They have their own core values, belief systems and views on work, family and play that differ from the generations before them. They're not as interested in the corner office or making partner. They're not as interested in max salaries and bonuses if they greatly infringe on their personal and family lives. They're interested in social change, giving back and what employers are doing to advance the larger interest and not just the firm's. They're less interested in traveling to conferences and meetings, and have learned how to interact, market and learn online. They're less interested in large offices and oak desks. In fact, they prefer to work at home or elsewhere out of the office. Whereas more senior lawyers have filing cabinets of documents and rely heavily on their paralegals and legal assistants, Millennials are content with their laptops, tablets and phones, relying little if at all on office staff. They're more mobile, more willing to switch firms, more willing to relocate, and more willing to pursue other opportunities. They want to be more involved in the decision making process, want more feedback and seek out mentoring relationships. They're less willing to wait their turn or play by others' rules. Some senior attorneys see them as a scourge. Others see them as saviors as firms respond to the tech upheaval. Love them or hate them, they are an integral and important part of the legal workforce and have a lot to contribute.

### Getting Past the Stereotypes

Some older attorneys perceive Millennials as lazy, self-centered, socially awkward and disloyal. They believe they lack work ethic, don't play by the rules, spend too much time on their phones or with buds in their ears and given the opportunity to make a little money elsewhere, will jump at the opportunity. Have I covered everything? I remember years ago our senior partner came back from a seminar where he heard a panel discuss the term "Millennial" and how these "Millennials" would destroy law firms if senior attorneys didn't keep them in line. No really. That's what the panelists said. Doesn't sound like a particularly productive presentation. First, I've worked with my share of Millennials at work, through voluntary bar associations and charitable organizations. My personal experiences do not support these stereotypes. Second, I don't mean to say the obvious, but unless you're not going to hire Millennials at all, and either hire older lawyers or wait until the next generation comes along, then you have to get over your skepticism and work with them. And third, just because some Millennials do things differently than us doesn't mean we do it better. We can each learn from the other.

## Motivating Millennials

There's a scene in *Mad Men* when Peggy Olsen tells Don Draper that he never says thank you and he responds, "That's what the money is for." That sums up the traditional view of work at a law firm. You put in long hours, you make personal sacrifices, you do good work, and you get paid well for it. The "thank you," the encouragement, the "mentoring," that's what the paycheck is for. Millennials want more than a paycheck. If you want to motivate Millennials, invest in them, their careers and their development. Mentor them and provide them feedback and constructive criticism. Mentor them even if you didn't have mentors. Encourage them, even if no one encouraged you. Spend time with them even if no one spent time with you. You say no one looked out for you, why should you spend the time looking out for them? Why spend that billable time? Why not let them take care of themselves? Listen to yourself. Did you like not having anyone mentor you? Do you want to continue that legacy? Find out what matters to your young associates—what charities, community events, activities they're involved with—and get the firm to work alongside them. They want to change the world. You want to motivate them to work harder? Longer? Invest in them and work alongside them to change the world together.

## The Practice with a Conscience—Giving Back

Do you notice car commercials say manufacturers will donate part of your payments to charity? How about commercials that address all the social good a company is doing, barely mentioning the product or service they're selling? Or company websites extolling how they give back to the community? How often do we hear feel good stories of companies responding to floods, hurricanes and tornadoes? When did these efforts become common place? I don't believe it's a coincidence that this emphasis on giving back occurred as Millennials hit the workforce and became a target for advertisers. How many of them buy shoes because the shoe manufacturer donates shoes? How many of them spend more on products that are environmentally friendly or buy from companies that pay foreign laborers a living wage? Millennials have given us an economy with a conscience. Companies who have focused on conscious-driven marketing want that to trickle down to their vendors, including their law firms. Law firms can adopt Millennials' social conscience and focus on giving back. Not only is it good for its own sake it's good for business.

## Tech Savvy

Tech is second nature for Millennials. They listen to songs, watch television and movies, order food, network, communicate, socialize, purchase



insurance, groceries and books and conduct their lives on their phones. They've figured out how to do things faster, cheaper and better through technology. They have cut the cable cord, the phone cord, and every other cord. They envision the most direct and inexpensive route from where they are to where they want to be, both literally and metaphorically, and use technology to get there. For them, there is hardware, software or an app that solves their problems, and if not, they can help create the solution to their problems. They are wired to solve problems through technology and accordingly, they will be crucial to your firms as you dive deeper into technology to better serve your clients. They were born and raised on technology, see its potential and can help firms do what other industries are already doing.

## Changing How We Communicate

Millennials communicate more through their devices than in person. Texting and messaging have supplanted face to face and phone communications. They communicate with more individuals, on a wider variety of issues, in a shorter period of time. "Multi-communication," where one carries on a "conversation" with several people all at once through phones, tablets or laptops, has increasingly become the norm. Our brains are being reconfigured so that we can reflect upon and discuss several items at the same time, literally simultaneously. Millennials are the quintessential multi-

taskers. As lawyers, we have always had to balance several tasks at once. Millennials are teaching us how to balance all the tasks at once. That's what clients are coming to expect.

## Team Focused

My law school experience was not team focused, which made it difficult to me to transition into a team focused environment after I started working. Millennials are less competitive with one another and more cooperative and collaborative. That's how companies work. That's the perspective you learn in a MBA program. That's what clients expect. Millennials are more willing to work together, brainstorm ideas, share the credit and share the rewards. Finding ways to have practice groups improve their collaboration and helping firms as whole work more closely together is a skill set ingrained in Millennials. It creates efficiencies of scale, better ideas and more creative solutions.

## Imaginative

As a generation "X"er, the last time someone spoke to me about imagination was Mr. Rogers on PBS when I was child. My schooling was focused on memorization, learning rules and studying text books. Millennials have benefited from an upbringing more focused on creativity and imagination. They appreciate more than I did at their age the importance of ideas and how truly transformative they can be. I was raised by parents who believed in working hard and collecting a pay check for a hard day's work. The idea that they or I would concoct some new-fangled idea to change something, anything, was foreign to us. But Millennials don't share that outlook and aren't shackled by those preconceived notions. They're more creative, more imaginative, more thoughtful, more entrepreneurial. They rarely take "that's how we've always done it" as an answer. Certainly, they think, there is a better way, more efficient way, more productive way? Certainly we can leverage A or adopt B to do more with less? Firms need to create an environment to foster and generate new ideas—in effect, become idea incubators. Millennials are wired to think this way.

## Entrepreneurial

Millennials believe in leveraging ideas, technology, themselves and others to do more for less—less money, less time, less energy. Why work 8 hours to earn X, if you can figure out a way to earn X in 4 hours? With their emphasis on quality of life and work-life balance, they focus on doing the job at



hand more quickly while not sacrificing quality. And if that means moving beyond the traditional law firm model, perhaps even moving beyond a more modern, more tech savvy law firm model to a startup that combines the best of tech and law and creates software that streamlines some aspect of the practice, all the better. Law firms that can create processes that reduce a client's legal spend will be in high demand, and Millennials are heading the charge in this arena. The big thinkers with the big ideas that revolutionize the practice will make a mint while many lawyers will be chasing dwindling fees created in the wake of these new technologies, processes and methods.

## Virtual Practice

Millennials aren't looking for the biggest office, newest furniture or the largest of spaces. WiFi will travel. They're happy to practice from their homes, a coffee shop or elsewhere. They're self-sufficient enough that they need little if any staff support. And they're happy to attend business meetings through their devices rather than in person. When we discuss a virtual practice with limited office space, staff and resources, Millennials don't blink an eye. Smaller offices, more collaborative rooms with smart boards, less staff, smaller retail space foot print—this all works for them. Virtual assistants and offsite IT support suits them fine. Collaboration remains important, and open spaces where attorneys can share ideas, suits them, but they can also do “face to face” through their devices. They're happy to see tomorrow's law firm occur today. You say you want to modernize? They're all in.

## This Isn't Your Father's Law Firm

Law firms are changing. Stodgy, mahogany-laden, books everywhere, conference sized offices for senior partners, top-down management, where you spend years competing for limited junior partner slots are evolving. Many younger lawyers aren't interested in spending countless hours and making innumerable sacrifices to secure a partnership which means little to them. Getting to the top, much less staying on top, doesn't have the panache it once had. Younger lawyers want more experience and client interactions sooner, a more collaborative environment and a place where their input and voice matters. They want a more diverse firm. They want to see more women and more attorneys of color in positions of ownership and leadership. They want a change in culture, dynamics and mission. They want change, period. Just as technology will change firm, so will Millennials.



## Diversity, “Me Too,” and Inclusion

The new generation of lawyers wants diversity in their law firms. They want to see more women lawyers, lawyers of color and LGBT lawyers being hired, promoted, trying cases and interacting with clients. They understand that diversity is not only morally right but it's good for business. As law firms become more global and represent more multinational corporations, with diverse interests, diverse customers, diverse employees and diverse needs, law firms need diverse lawyers who speak their language, understand their culture and appreciate their needs. In-house counsel have been beating the drum of diversity for their outside counsel for years. More and more, they're pressuring outside counsel to diversify or lose their business.

Also, the “Me Too” movement has made behavior too long tolerated in the workplace anathema. With female lawyers going public about sexual harassment in law firms, firms are taking steps to ensure this behavior won't be tolerated and won't continue. Law firms aren't immune to inappropriate behavior, and firms are taking the initiative to prevent such future behavior from occurring. A work environment where everyone can flourish and share their gifts for the common good is what young lawyers expect and what every law firm should be working towards.

## Intergenerational Law Firms

Insisting Millennials do things the way they were always done is a non-starter. Senior attorneys imposing their way of doing things on younger



lawyers is not going to work. Each generation of lawyers in a firm does not have to change who they are or how they do things to co-exist, collaborate and work together. Firms need a vision, a mission and values. They need lawyers who live and abide by these. How they do it isn't nearly as important. If young lawyers put in a full day's work, but do it from home, or have flex schedules where they either start early or stay late, and this schedule does not affect client services or relations, does it matter that senior attorneys were expected to be the first in the office and last to leave when they were associates? Look folks, things have changed. You want to impose your rules on others simply because they were imposed on you, and it's not fair these "young lawyers are getting away with it," whatever "it" is, then do it at the risk of alienating the future leaders of your firm and driving them to your competition. Are you saying it's not fair for these young upstarts to declare the rules? Did you just use the word "fair?" Aren't you too old to be using that term? I don't let my boys use that term. There is more than one road to winning and there is more than one way to skin a cat. Focus on the "why" of your firm, and be flexible as to the "how."

## The Best of the Old and New

Firms need to draw from the best of the past and the future. Older generations of lawyers have the clients and trial experience. Younger generations of lawyers have the tech expertise and wherewithal to address the challenges firms will be facing. There are leadership, management, practice and marketing skills each generation can contribute to firms, and by finding how they complement and supplement one another, firms will be best positioned to transition from how they do things now to how they will need to do things to stay relevant.



# The Law Office

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## The Virtual Office

The day will come when we will be able to operate our firms from our phones. We already exchange emails and text messages, video conference, research and access our files from our phones. Once voice recognition can understand us as well as our family and friends, and we gain access to anything and everything in our office files, and can research, draft and revise the same way we do in our offices, and the likes of Siri can interact with us the way legal assistants do, the transition will be complete to our phones. That day isn't far off. The goal of running a law firm from one's phone is being tackled by numerous tech companies who want to cash in on the virtual office. Transitioning more work from an office and desktop to anywhere in the world on a phone is happening right now. Transferring more tasks from legal assistants to programs and apps is happening right now. Making legal assistants and para-professionals obsolete is happening right now. The desire to cut labor costs by reducing, and possibly eliminating legal assistants altogether while empowering lawyers with technology that is faster than human beings and less prone to error will drive change toward the virtual office. And this raises the question—who else can we eliminate from the equation?

## The Virtual Assistant

Firms have been reducing staff for years. The big shakeup occurred shortly after the 2008 market crash, where law firms learned to do more with less. Legal assistants were the first to go, along with anyone else who was not billing and therefore were not revenue generators. Since then, firms went from 2 attorneys to legal assistant, to 3, to 4 and to even 5 and 6. Firms have been investing in training for their lawyers to do their own secretarial and clerical work, and providing them the tools to do so. Some services have been outsourced. Firms will continue to define the tasks their legal assistants perform and find ways for their lawyers to do it themselves, either on their own or with the assistance of technology, or possibly outsourcing it. For example, scheduling conference calls with multiple parties can be time consuming. However, there are programs and apps that streamline the process and allow anyone to do it quickly and effortlessly. As law offices and courts have gone paperless and everything can be uploaded and delivered electronically, there are fewer tasks that legal assistants are needed for. The time may come where large firms only have a legal assistant or two to provide staff human interaction to those clients who still seek it.

## The Virtual Lawyer

After technology replaces legal assistants, who do you think is next? Fungible legal work that can be easily replicated and duplicated will be handled by programs driven by algorithms and artificial intelligence. We see that now with Legal Zoom. We're seeing AI tackling legal research through ROSS. Just as Ford reduced the craft of making vehicles into an assembly line and replaced craftsmen with semi-skilled workers, attorneys are working with tech companies to identify those tasks that lawyers perform that do not require a high level analysis or thought process and can be easily replicated. For example, written discovery in an auto negligence case, or a form motion to compel in state court, or a subpoena for records one day could be done by a computer. A lot of tasks we perform as lawyers can be reduced to checklists and replicated. That's going to happen. Tech savvy lawyers will assist developing this software and using it at their firms to reduce their costs and will adjust their business model to recapture this lost time doing more sophisticated work that can't be done by a computer. Imagine telling a client you won't charge them for issuing subpoenas, basic written discovery, or basic motion practice? Clients with high volume, low-to-medium risk matters will flock to those firms.

## Telecommuting

Working from home or while traveling is quickly becoming the norm. With paperless offices, remote access, smart phones, tablets and laptops, video conferencing, high speed networks, etc., much of what we traditionally have done at the office can now be done anywhere. There is the added pressure on law firms to reduce costs which can be done by reducing a firm's physical size by reducing the size of offices and eliminating some altogether by having shared offices by attorneys who split their time at the office and at home. As firms continue to represent clients beyond their immediate geography, there will be less in person client meetings and less need to have offices for all lawyers to meet with clients (and of course attorneys can meet clients in the firm's conference rooms). And being able to work from home is a huge selling point to recruit younger lawyers who don't want to fight ever worsening traffic to drive to and from work and spend too much on overpriced lunches at restaurants near their offices. An extra hour or more of free time coupled with cereal for lunch (if one so chooses) is an attractive incentive.

## Video Conferencing

With the development of virtual reality and augmented reality, feeling like everyone is in the same room when they're not will become the norm. Video

conferencing is ubiquitous now. What will one day become ubiquitous will be lawyers, clients, experts and others meeting through virtual reality, and manipulating documents and items, and sharing smart boards and virtual legal pads as if everyone is sitting right next to one another. Again, reducing costs is driving this. Why spend the money on airfare, hotel and transportation when you can have virtually the same interaction from your firm's conference room? There will be upfront costs, but it will be a selling point for law firms who can recreate in person meetings remotely. Corporate clients will have to invest in this technology as well, but they too will have cost cutting incentives to do so. Business travel for lawyers will become more rare in the years to come.

## Less Space

To cut costs and remain competitive, firms are going to continue to reduce their physical space. As leases come to an end, firms will reduce office sizes, reduce number of offices, reduce conference room sizes and consider closing smaller offices altogether. Corporate clients are paying less attention to a firm's office space. In fact, they see opulent spaces as a waste which they pay for through higher billable rates. A modest sized office in a modestly priced commercial area can save both firms and their clients' money. Money saved on office space can be redirected to upgrading a firm's technology, making office space even more obsolescent. If partners want large corner offices, firms will make them pay for them. And given the choice to have money in their pocket and an ocean view, most will take the money. As law firms downsize in space, expect a reverberation throughout the commercial leasing market, with too much space and too few tenants, the cost of office space will drop, saving firms even more money.

## Less Overhead

Everything firms will be able to cut, they will cut. Less space, less staff, less perks, less frills. Some firms will take a stipend approach, and provide each lawyer, based on seniority, hours billed and income generation, a stipend to spend on their office and practice needs. Anything above that will have to come out of their bonuses. This way, lawyers will have autonomy to spend firm resources in the manner that best serves their practice and puts the onus on them to be stay within budget. Corporate clients perceive lawyers as cost centers. We don't make them money. We just help them pay less money to third parties. So anything that reduces our cost, and by extension theirs, is welcomed by them.

## Law Office Design

Law firms will move away from individual offices to more open spaces. As more lawyers work from home, individual offices will be replaced by stations where lawyers can work when not working from home. These stations will be open and facilitate collaboration and team building. Bringing attorneys together in open spaces to discuss their cases, brainstorm solutions and work together to win will replace attorneys remaining in their offices working only on their own matters by themselves. Clients, of course, aren't going to pay multiple attorneys to think about and discuss their matters. If firms move to alternative fee arrangements though, these open discussions may lead to quick and low cost solutions that will allow firms to capitalize on flat fee cases. Finding creative, quick solutions to lawsuits may lead to windfalls for firms who assume greater risks by accepting more flat fee arrangements.

Also, firms will create more public places in their firm space. Open rooms with cozy chairs where attorneys can talk and larger break rooms where attorneys can sit and have lunch together will become the norm. Working as a team starts by creating team spaces. The lone wolf lawyer will give way to the team player, and office space will reflect this.

## The “Look”

Expect a burgeoning market of office space designers creating the law firm “look.” Designs that are popular in Silicon Valley will translate over to law firms, but on a smaller scale. Law firms will want to emulate their clients' offices and show physically that they have bought into the team mindset and have recreated an environment where creativity and ideas flourish. Everyone will be plugged into everyone else, tech wise, and can have group discussions on their phones and laptops while also being physically close to one another and having discussions in person. Creating an environment where there are no castes or hierarchy, and ideas can come from anywhere, not just from the top, will help firms develop practice altering ideas. The “Look” is modern democratic with a splash of color.

## Law Office Furniture

We're already transitioning into tomorrow's office furniture. We'll see smaller desks for individual lawyers and larger communal desks for groups of them. More work stations that allow you to stand or sit. Ergonomic chairs, some hardly looking like chairs at all. Hands free phones, laptops and tablets, fewer filing cabinets, and generally less furniture. More cozy chairs and sofas to reflect bringing home life to work, as the line between working from home and working at the office continues to blur. Office managers will ask more

than simply does this furniture look nice and will ask does this furniture encourage our lawyers to be more productive and creative?

## IT Investment

While firms will be cutting costs in personnel and office space, they will increase their investment in technology. Firms will spend more on computer hardware and software, apps and services. Clients will demand and firms who want their business will have to secure cutting edge technology to provide their clients the best service in the most efficient and cost effective manner possible. Some of the money saved on reducing staff such as legal assistants will be spent on hiring resident IT personnel. Some of the money saved on leases will be spent on IT hardware and software. Firms will spend the money to attend tech shows and seminars to study what is the latest and greatest and determine what makes financial and practical sense for them and their clients. Lawyers will spend more non-billable time investigating, researching, and trying new tech for their offices and practices and possibly create their own software and apps.

## IT Training

Where firms now send associates to deposition and trial boot camps, they will soon be sending them to tech law camps, where they will learn how to utilize the latest legal tech to better serve their clients in litigation and at trial. Tech expos, which are popular now, will explode, and more and more clients and their outside counsel will meet, network and do business at these events. Firms will hire more consultants to come to their firms and train their lawyers, paralegals and staff on how to use new technology. In fact, firms may hire their own personnel to do regular in house training. Firm tech is constantly changing, evolving and improving. To keep up, firms will invest more in training and make training part of their budgets and routines.

## IT Predicting

Legal tech is fluid and organic. It changes. It evolves. Tomorrow's legal tech will do more than today's. Tomorrow's tech will do things we hardly imagined were possible. Leading firms will not settle for what's best today. They will try to predict what will be best for tomorrow and seek out those who are on the ground floor working on the next breakthrough in legal tech. To do this, they will assign one or more lawyers to become law tech futurists, lawyers who will be trained to predict future tech trends, get ahead of them and get on the ground floor before other firms appreciate the advantages





new tech has to offer and incorporate it into their practices. Legal futurist consultants will rapidly increase in number, helping firms to plan ahead for new technologies and even help firms partner with venture capitalists and tech companies to work together on developing new tech that not only law firms will use, but in-house counsel will use too. The money to be made is not simply using revolutionary tech. The real money is creating this new tech and selling it and licensing it to others. Predicting what this tech will be and designing it will be the golden ticket for law firms.

## The Hardware

The next generation of computing will be quantum computers. Quantum computing will use quantum mechanics - where computer science meets quantum physics. They will run new, more powerful algorithms and process information more holistically. They'll crack any code, crunch enormous data and send artificial intelligence into hyper drive. "Quantum supremacy," when a quantum computer exceeds the capacities of the fastest supercomputers, and will be able to solve problems that today's computers cannot, is getting closer. Problems that require lawyers to solve today, may be solved tomorrow with quantum computers. We lawyers think that much of what we do can't be done by computers. Quantum computers may prove us wrong.

## The Software

More and more administrative, secretarial and related tasks will be done by software. Expect to do most everything your legal assistant and paralegal do through software on your laptop or phone. Software will enable a lawyer to be a law firm of one. Being able to handle a case from start through finish through programs that make litigation smarter, faster and more effective will become the norm. Sophisticated clients will regularly assess the available software to their outside counsel and will expect certain programs, or permutations of certain programs, to be used by them. There will be an arms race to build the most useful, time-saving, effective legal related software and it will make attorneys more efficient, more productive and more effective. The problem of course, is that the more efficiencies one creates, the less need there is for so many lawyers. If a program can allow one lawyer do the work of two, what happens to half the attorney work force? Chasing technology won't be without its consequences.

## The Smartphone

Lawyers want to run their practices and cases from their phones. We watch movies, listen to music, follow the news, and do a whole host of things on our phones. Why not have it replace our desktops and laptops? With voice recognition, faster chips, virtual keypads and 5G, our phones will allow lawyers to practice anywhere anytime. Many have replaced their laptops with tablets. Tablets will soon take a back seat to phones. Running a practice from your phone will free up attorneys to travel and work away from the office more, enabling them to seek out more opportunities to network and market and attract clients as opposed to being tied to their desks. Of course, with our practice at our finger tips, clients will come to expect even faster responses from us.

## Wearables

Smart watches, which many use as a short hand for their phones and to track their health, will continue to evolve. Wearables will play a role in reducing one of firm's largest line item costs—health insurance. As personal privacy continues to erode, law firm attorneys and staff will agree to share their personal health information recorded by their wearables with third parties who will estimate how much health services they'll consume due to their health status. More firms will create incentives to improve one's health. Not exercising enough? Not walking enough? Resting pulse rate too high? Not sleeping regularly? That will result in higher health premiums to firms which firms will pass onto their employees. Firms simply may agree to cover X

dollars for their employees and no more. If an individual employee's risk factors are low enough that the firm gets charged less than X, the firm would pass the savings to the employee. If the converse is true, the employee would pay the additional premium. Many companies already have health initiatives. Something more hands on, let's say, isn't far off.

## Protecting Client's Data

With cyber security breaches becoming more common and more disruptive, clients will expect their outside law firms to have state of the art cyber security to prevent the disclosure of their confidential and proprietary information. Expect companies to test law firms' protections against external attack to see which ones pass and which ones don't. As clients expect more from their outside firms and raise the bar to ensure their firms are doing everything they can to protect their information, firms will have to invest more of their budget on cyber security, cyber security insurance and IT personnel to meet clients' needs and expectations. The cottage industry of cyber security will continue to grow, creating new and more effective ways (translation—expensive) to protect your clients' information. Larger firms, with greater resources, will have the advantage of providing state of the art cyber security. The free market being what it is, though, cyber companies will find ways to protect client information of smaller firms for a price that won't break the bank. Perhaps they'll host all the information or become the guardian of all a client's information in the equivalent of a data vault. Protecting clients' data will become a marketing tool for firms to attract more clients which will help defray these additional cyber expenses. Firms who don't heed the warning to protect their clients' data will be the subject of lawsuits. Expect many law firms to be sued for cyber breaches.

## Associates

Firms complain associates are not loyal. Associates complain firms don't invest in them. Firms believe that associates don't play the long game and don't see the big picture. Associates believe that firms place partners profits' above their interests. To ensure that firms and their associates meet each other's needs on mutually beneficial terms, firms will spend more time researching associates' wants, needs and desires and to a degree, meet associates where they're at and provide them the tools and resources they are seeking to grow as lawyers as they serve the firm and its clients. Simply ignoring the next generation of lawyers and insisting they do things the old fashioned way is going to lead to disgruntled associates who will eventually leave a firm and take the firm's investment in training with them. Firms will

invest in more consultants to interview their young lawyers and find ways to better serve them so they better serve their firms. Millennial consultants will burgeon to tell firms what they're doing wrong and why they're not holding onto their associates. A lot of firms will take the initiative themselves and save money on consultants by spending more non billable time with their associates, asking them more questions, conducting more surveys and working with them to meet their needs. Figuring out what associates want isn't rocket science. It just takes time and patience and outsourcing it to consultants isn't the most effective use of a firm's resources.

Also, firms' associate selection process will evolve. More emphasis will be placed on defining a firm's values and identifying associates who share and live by those values. Firms will still want the best and brightest, but to keep associates long term, finding those with shared values will take precedence over Ivy League degrees and editors of law reviews. Shared values will become the catch phrase for future hires.

## Alternates to Associates

In their pursuit of cost cutting, firms will focus on how to replace associates with less expensive alternatives. Contract lawyers is one alternative. Hiring counsel abroad licensed in other countries to research and draft memorandum is another. Creating larger roles for paralegal is another. Replacing some of their tasks through AI will be explored further. With clients viewing young associates as training on their dime and some clients refusing to pay for the services of summer clerks and first year associates, firms will continue to explore other avenues to associates and will shy from hiring young associates, preferring mid and senior level associates they don't have to spend the money and time to train. This, unfortunately, will leave many recent law school grads struggling to find jobs to pay their student loans. Wage stagnation will continue for the least experienced lawyers and fewer college students will opt for law school. Some believe this will create a shortage of lawyers over the long term. That would be true if law firms don't learn how to leverage technology. If they do, the decreased associate pool should not have a long term effect on the legal industry and should result in reasonable wage growth for associates overall. It will take time to reach this equilibrium but market forces should keep the ratio between attorneys and clients at an appropriate level.

## Paralegals

Paralegals will continue to play a large role in tomorrow's law firms. As firms hire fewer legal assistants and young associates, paralegals will play

an outsized role serving a firm's clients. They will also be trained in firm tech to help firms make the most of new technologies to better serve their clients. Paralegals with certificates in law firm technology will become commonplace as they keep one foot in the legal field and one in the technology field, finding crossover wherever possible. Firms will be looking for paraprofessionals to go beyond legal work into other areas (technology, marketing, etc.) and paralegals, with the proper training and certification, will fill that role.

## Outsourcing

Just as large companies outsource production abroad to save money, firms will outsource where possible to save money. More work will be done abroad by attorneys licensed in countries where job opportunities and salary expectations are much lower. As firms are asked to assume more flat fee work, they will outsource certain aspects of that work abroad for flat fees. As clients shift the risk to law firms through flat rate arrangements, often very favorable to the client, firms will look to shift their risk to subcontractors who will handle some aspects of the matters. Spreading the risk pool will become a priority for firms.

Smaller firms will seek to sublet technology from tech firms to avoid the expense of pursuing the latest tech updates clients insist upon. Outsourcing IT and cyber security will enable smaller firms to compete with large firms without spending too much.

## Contract Personnel

To save money on health insurance, salary and benefits, more firms will hire contract lawyers, paralegals, IT personnel and office managers. Many firms do that now. There is a tier of legal professionals who get paid less but who work fewer hours and have more flexible schedules. Some view this as a caste system with contract personnel sitting on a lower rung. Others view it as an opportunity for lawyers to secure jobs at firms who would not otherwise hire them with reasonable schedules most firms don't offer their rank and file associates. The ranks of contract personnel will grow as more young attorneys chase fewer opportunities and firms will be able to hire more lawyers on a contract basis because of the lack of sufficient associate positions causing talent to search out alternatives. Hiring independent contractors is common in other industries. It will become more common in the legal industry.

## New Legal Professionals

There is a rise of the new legal professional to help firms with technology, cyber security, business development, diversity, associate training, associate retention, partnering with clients—just about everything that goes beyond the mere practice of law. There are many aspects of running a successful law firm that we did not learn in law school. Running firms are becoming more, not less, complex. How do firms determine the best technology for them and their clients? How do they train their staff on this new technology? How do they keep their associates happy? How do they transform their lawyers into rainmakers? How do they equip their lawyers to work in a global economy? Firms will hire more non lawyers to address these issues or contract non lawyers to provide these services. There will be opportunities for those who wear two hats. Lawyer/tech specialists and lawyer/business gurus will be in high demand. Attorneys graduating with joint degrees - JD/MBA or JD/Tech degree—will break through the piles of resumes sitting hiring partners' desks. Law students will find opportunities to consult in areas that affect law firms but that don't directly relate with litigating and trying cases. Lawyer/consultants will increase and will fill a niche of law firm jobs that are just burgeoning now.

## The Rise of the IT Professional

As the role and use of technology grows in the legal profession, IT professionals who can code and help firms develop their own software and





apps will become the “it” professional. The money to be made in pursuing firm technology isn’t simply attracting clients who want firms to adopt new technologies, but it’s in developing new technologies and licensing it to hundreds, if not thousands, of companies and law firms. IT professionals that can shepherd firms from idea to product, from concept to program, can help firms’ bottom lines flourish without the added cost of more associates, paralegals and legal assistants. Law firms will explore their entrepreneurial roots and see law-based technology services as an area they can move into, develop and exploit. And of course, the more traditional roles for IT professionals—installing and updating hardware and software, trouble shooting, cyber security and training—will be in greater demand and more IT professionals will be needed to provide these services.





### Ideas Will Distinguish Law Firms

Firms who move beyond the practice of law, and discover how to handle matters more effectively for less and implement processes to do so will separate themselves from the pack. It's more than being a great lawyer or writing a great brief or being a great orator. It's about developing creative and imaginative solutions to handling matters differently so companies reduce legal spend while achieving favorable results. Firms spend a lot of time and effort training their associates on writing well, taking depositions, arguing motions and trying cases. Within that, time is spent on defining a win for the client and achieving that win. But clients want more. They want firms to stamp out inefficiencies, develop creative solutions to matters, help them avoid lawsuits altogether and significantly reduce their overall legal spend. In-house counsel, right now as you read this book, are figuring out what steps, processes and approaches their companies can use to pay you less and consultants who can help them do this, whether through analytics, AI or otherwise, are being well compensated for it. Why should they be paid to make you less relevant? Why can't you be paid to make other counsel less relevant? The firms with the ideas to revolutionize the practice will have an esteemed seat at the table. That's where the money will be.

### Pace of Change

For years, the pace of change in commerce has been exponential. The legal field, after decades of slow and gradual evolution, is finally experiencing this. Client expectations, retail and service trends, technology and market changes are forcing firms to change and change fast. Firms need to invest at the partner and associate level to monitor current and prospective changes and discuss what they can do to stay ahead of the curve. What are the hot new practice areas? What will they be in five years? How do we train our attorneys to handle those matters? What do clients expect as to technology, cyber security, risk sharing, best practices, etc.? Firms have to do more than do good work. They have to do more than simply market their practices, develop relationships and keep clients happy. They need to study trends, not just in the legal sector, but in a wide variety of business sectors, evaluate how other businesses are dealing with change and analyze how their successes can be translated into the field of law and applied at their firms. Firms are not investing enough of their resources to develop their lawyers into thought leaders to lead them through the upcoming barrage of changes that will be striking their practices.

## Doing More with Less

Clients are going to adopt flat rate fees more and more and they will place the onus on firms to make these arrangements profitable. Not all matters will be reduced to flat rates, but many more will. With more data and data mining, companies will have reliable information as to what litigating matters cost, and what a reasonable price is to pay for a case so that the client doesn't overpay and the firm makes a reasonable profit. Of course reasonable profits means different things to different firms, and larger profits will not be driven by searching out higher flat rates but rather finding more efficient ways to handle those matters. Billable tasks will be divided so that they can be handled as efficiently and cheaply as possible. More attorney alternatives will be relied upon to do the same tasks for less. Expect more alternative dispute resolution seeking quick resolutions to matters, data sharing with Plaintiff firms so they can see what a reasonable settlement really is and deals with third party vendors like court reporters, translators and experts, all to shave costs and reduce the price tag of cases by 25% or more. Less money will create hardships for firms, but those firms who can secure sufficient flat fee cases will spread their risk across many matters and will find ways to profit. This flat fee model, though, will drive down salaries for those handling the more fungible aspects of cases and will reserve the higher salaries and profits to those who bring in these matters and those handling those aspects of the cases that require true expertise, imagination and talent.

## The Art of Leverage

How does a firm leverage everyone's time and its resources to ensure that everyone and everything is operating at peak performance? What's the best use of a senior partner's time? An associate's? Staff? Technology? Marketing budget? Office space? Where can every dollar be allocated so the ROI is higher? At its highest? Firms are and will continue to ask "What value does X provide?" Is a partner making the best use of his time and firm resources pursuing client X? Working on case Y? Doing ABC tasks in case Y? With the explosion of data, consultants will explain to firms their ultimate profitability equation and will explain what everyone should be doing, what technology should be used and what plan to pursue to ensure that  $X + B = \$$ . The great firms will move beyond how they can leverage everything at their firm and teach their clients how they can leverage everything at their companies? How do they leverage the law, commerce, technology and social media, among other things, to not only reduce legal spend, but reduce cost across the board, and increase profits. Lawyers as business partners will be in high demand.

## Employing Technology

There was a day, years ago, when Westlaw or Lexis was optional. Online research tools aren't optional anymore. There was a day when smart phones were optional. Not anymore. What's the next Westlaw? What's the next smart phone? What's the next hardware, software or app that will revolutionize the practice? Firms can't rest on today's technology. They can't say what we have is good enough. You know why? Because your competitors are securing something better and providing better services than you. It's easy to think that technology can't revolutionize, again, the practice. What if Westlaw moves beyond helping you find the perfect case and helps you write the perfect motion? What if 10 years from now we look back and ask, "how did lawyers write their own motions and briefs without Westlaw's AI?" Yes, there is a lot of questionable technology. Yes, there is a lot of technology with low ROI. But there is a lot of technology being used now that helps lawyers and their clients immensely and the advances of legal technology are going to continue to grow exponentially. Firms will have to dedicate more resources to seeking out and employing the technology capable of changing, for the better, their practice.

## Alternate Fee Arrangements

Many have been writing the obituary of the billable hour for years. But their forecast will come true. Expect alternative fee arrangements, especially flat fees, to become the default within 5-10 years and replace the billable hour entirely within 10-20 years. The billable hour may not be dead, but it is on life support. With so many lawyers chasing so many clients, with the exception of the highest end work, clients will shift much of their risk to lawyers by quoting a flat rate or something similar, or invite firms to bid via flat rates or other alternative fee arrangements, and let firms assume the risk of runaway cases. Companies, of course, will have to show some mercy from time to time, but for the most part both parties entering into alternative fee arrangements will have to make informed decisions before agreeing to the terms and will have to live with those terms, even though, as we all know, litigation is not predictable (there are folks developing AI right now who would disagree with this). Alternative fee arrangements will force firms to split up cases into discrete tasks and have as many of those tasks performed by lower paid employees. The billable hour is dying and its replacement will bring with it a caste system.

## Subscription Pricing

We pay subscription rates for movies and television shows (Netflix), music (Apple music) and other services. A person pays a flat fee and

gets everything they want each month. What if firms did that? One firm bids for all of a company's legal services for a year and subcontracts with other firms where needed and assumes responsibility and risk of all of a company's legal needs for a full year. One-stop shopping. For firms, this is high risk, high reward. The upside is a guaranteed source of income for the year, possibly a very large one. The downside is assuming a company's risk for all their legal services. Protections can be built into subscription pricing retainer agreements, but as time goes on, clients will agree to fewer and fewer protections for their outside counsel. The right firms will make this arrangement work. The wrong firms will close their doors. So much upside. So much downside. Brave new world.

## Investing in R&D

Companies invest in R&D. Why shouldn't law firms? Law firms need to play the long game and hire or contract with professionals who can assist them in studying, analyzing, developing and marketing software, apps and programs for law firms and clients to help them handle their legal matters. If nothing else, firms should invest in R&D to improve the way they serve their clients, both more effectively and more efficiently. Some firms today are developing their own technology to better serve their clients. More firms will follow. For firms not prepared to make the technology R&D jump, how about the process R&D jump? How about studying how your firm handles matters, determine the best practices, reduce best practices to a series of processes, and have all the attorneys follow those processes? This written process eventually can be reduced to a flow chart program for your attorneys to promote quality control. What if a firm created a paint-by-numbers program to resolve certain types of matter? For simpler matters, we may not be far off. There are firms now with technology ventures creating new legal technology. More firms will follow suit.

## Innovation

Law firms can become the epicenter for legal tech innovation. For legal tech to solve real world legal problems effectively and efficiently, it needs to be tested in a real world environment. What better place than law firms to test and develop programs which will help them better serve their clients and help clients better address their legal needs? What if firms went beyond solving their clients' problems one at a time—defending a case one at a time—and created solutions for their clients to handle all their matters more efficiently? What if they created presuit alternative dispute resolution apps for companies to resolve matters quickly? What if they created software

which facilitated resolving third party medical liens in personal injury matters? What if firms invested in analyzing what aspects of a lawsuit could be streamlined or eliminated altogether with the right technology? Lawyers instinctively know the answers to these questions based on practicing every day. They just need assistance from programmers and the like to transform their ideas into reality. Firms will spend more time thinking big picture, going beyond individual cases, and develop technology to reduce the cost and time to handle legal matters.

## Creating Your Own Technology

The potential financial upside of creating the next big thing in legal technology will spur the entrepreneurial spirit of many firms, where either they or companies they create will pursue the next bestselling legal app, or legal software or program that will either address a discrete aspect of the practice (scheduling hearings, checking citations, creating timelines) or something broader (drafting motions, preparing witnesses for deposition, preparing for jury selection). We lawyers know what we do and how we do it and have ideas how to do it better and teach others how to do it better. The tech gurus know how to translate our ideas into code and algorithms and create a program that can be sold and licensed. The synergy between law and tech, between law firms and programmers, can enable firms to take a seat at the table for the next generation of legal tech.

## Partnering with Silicon Valley

Investors are known to partner with Silicon Valley. Why not firms? Why can't firms partner with Silicon Valley, develop legal tech and then entertain offers from investors? There are opportunities for synergy between law firms who understand what aspects of their practice may be automated and those who can translate their ideas into reality. To develop effective software, it has to be tested by those who will use it. Why can't firms conceive the idea and work with developers to create software and modify it to ensure it achieves the stated purpose glitch-free? Expect conferences to form and serve as incubators for legal tech where tech folks network with law firms and together conceive and lay the foundation for legal tech projects they work on together. There are so many tech solutions law firms can offer other law firms and clients if they partner with the right folks with the tech know how.

## Partnering with Investors

Developing legal tech isn't cheap. Firms who don't have the resources may partner with investors. Even firms with the resources may choose to partner with investors to spread their risk. There is a lot of money chasing the next big thing in technology. Just as investors seek out Silicon Valley to invest in the next revolutionary software or app, they will do the same with law firms. Law firms can direct the tripartite relationship among themselves, tech companies and investors to design, develop and market law tech. Taking the lead in this relationship will draw the attention of clients who are looking to partner with firms to reduce their legal spend. Being at the head of the table will enable firms to direct the conversation about legal tech on their terms.

## Developing Platforms for Clients

Law firms can move beyond representing clients in individual matters and partner with them to develop law related platforms that they, their legal departments and their outside counsel can rely upon to handle all their legal matters more effectively and efficiently. Companies are exploring platforms that cater to their specific legal needs that are intuitive, easy to use, effective and evolve as their legal needs evolve. Clients are always searching for the value-add, seeking outside counsel to be their business partners. Developing a legal strategy where you assist clients identify what aspects of their legal department and litigation can be improved, whether through improved processes, training or technology, and taking the initiative to work with clients to develop platforms to improve the delivery of legal services will set law firms apart from their competitors. Yes, law firms will be creating methods and technology that will decrease the legal services they provide to clients but will likely be rewarded by clients for their efforts and successes to make themselves expendable.

## Developing Apps for Clients

There seems to be an app for everything. These days firms, voluntary bar associations and everyone else have their own apps. Clients have apps for their customers. Are there apps, though, that would benefit their legal department? How about their outside counsel? Apps make our lives and careers easier. Legal-related apps can improve delivery of legal services. Your clients may have legal problems or issues they want addressed through an app. Perhaps a client wants an app that helps outside counsel and the client's corporate representatives to prepare for corporate representative depositions—the dos and don'ts, mock questions, video presentations of sample lines of questioning, etc. The most important deposition in a case is

the client's representative. What if you could create an app to improve the likelihood that corporate representatives perform well at their depositions? The possibilities of apps for clients are endless and law firms should take the lead in developing them.

## **Solving Clients' Problems on Their Terms**

A common refrain from clients is that their outside counsel don't listen to them. Clients want solutions on their terms. It's their business. They bear the risk. Whatever the outcomes, it affects them first and foremost. Their solutions may not be our solutions. How they define a win may not reflect our definition. But clients will insist on more clever, imaginative and sometimes downright revolutionary solutions and we'll be asked to deliver. Ideally, clients would want to eliminate all litigation. The firms whose solutions come closest to this goal will be the ones who will have access to the smaller litigation pie they created. Reduce a client's overall legal spend by 20%, and you'll be rewarded with a larger slice of the remaining 80%.

## **Future Legal Tech Will Come from You**

The most intuitive legal tech, the legal tech that will solve real world problems in the legal field, the legal tech that will change how we practice, how we litigate, how we try cases and how we win, will come from you and your law firms. It is time for you to assume your proper position and take the lead on law technology. We have to move beyond adopting effective legal tech. We have to create it ourselves. We know where the problems lie, where the efficiencies can be created, where there is potential for radical new thinking and approaches to lawsuits. Let's sit down and think through solutions, create an action plan on how to turn those solutions into tech that we and others can use and secure the tech help to turn those blueprints into reality. The hoof beats of change in the legal field are growing louder. You can lead the way, simply follow it or get stampeded. The choice is yours.





# Clients' Expectations

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## Changing Consumer Expectations

Our current marketplace has taught us consumers that we can get anything we want for less delivered to our homes. There isn't a movie, book, meal, song, an article of clothing, a toy, an electronic or appliance that we can't find instantly online, find the best price for it and have it delivered to our home, sometimes immediately, for free. The brick and mortar store is on life support. Music stores have become a throwback. How many bookstores are left? Even restaurants are finding that unless they can provide their menu online and deliver, they may be closing their doors soon too. Consumers get exactly what they want, at a fair (sometimes cheap) price in the convenience of their homes. We have become spoiled and it will only get worse. So if we can get a ride, a meal, a movie—you name it—on our terms, how do you think that affects our clients' thinking about how they should get their legal services? The customer was always right. Now, more so than ever. If the retail marketplace caters to consumers, why shouldn't the legal marketplace? If everyone else is bending over backwards for consumer dollars, why shouldn't law firms, or so the thinking goes. So the expectation, thanks to Amazon and others, is "I want efficient, effective legal services for much less, on my terms." This is our new reality.

## How Technology Has Changed Clients

With smart phones, virtual assistants and the internet, we're accustomed to getting immediate answers to any and every question we have, no matter the time of day or night. We want answers, the right ones, right away. So clients are programmed, as we all are, that when they call with a question, they want answers, the right ones, as soon as possible. Technology has placed lawyers in the unenviable position to offer legal advice quickly and expeditiously, when historically, lawyers did not have to rush and could double and triple check the accuracy and basis of their advice. Also, lawyers rarely had to field questions Friday evenings or over the weekends. Now that's commonplace. And the ease we secure answers in our personal lives can suggest to some clients that lawyers should likewise have ease securing answers to their legal questions. So when clients seek our advice, whether they appreciate it or not, a stopwatch goes off in their minds and we're expected to find the right answer fast. Irrespective of when the question comes, and irrespective of what we may be doing when the question comes in, we're racing against the clock to keep the client happy. Thank you technology.

## How We Process Information Has Changed

Multi-tasking has become ubiquitous. Receiving information from multiple sources—email, texts, app messengers, news alerts, health monitor, Twitter, LinkedIn, etc.—is the new normal. Some of us receive 1000 or more bits of discrete information each day. In response, our brains have adjusted, even, let's say, evolved. How much faster do we read, access and decide to engage with a given bit of information? It's instantaneous. And when we engage with the bit of information, we seek out the core message and respond to it—we respond, we comment, we read more, and pursue more information. All this happens very fast. And it happens all at once. We jump from an email, to a text, to breaking news, to a Tweet, to an instant message, back to another email, and so on. And you know what's amazing? We take this for granted. This is how we now process information. Clients are like the rest of us. They are bombarded by too much information and make split second decisions how to respond. So when marketing to prospective clients, engaging with them, responding to their inquiries and addressing their issues, appreciate that they fundamentally process information differently than a mere 10 years ago. And these changes will speed up in the coming years. When dealing with clients, don't forget how we think and engage and how much that has changed and how much more it will change. Let's not complain about this. It is what it is. Let's accept it and deal with it.

## Reaping Where They Don't Sow

Free is no longer the exception, but the rule. Facebook, Twitter, LinkedIn—all free. News, magazine articles, even some books—free. Blawgs, online publications, legal resources—free. We've accepted the necessary evil of directed advertising to get more and more stuff for free. We once paid for newspapers. Not any more thanks to online news. We once paid to communicate with friends and family abroad. Not anymore, thanks to apps. Even when we pay for something, we want a lot more than what we paid for. Flat rates for all the streaming movies we can watch or all the streaming songs we can listen to. Who still pays for cable? How about full price for hardcover books? We've become spoiled. In a market driven economy, where demand drives supply, and catering to consumers wants is an underlying tenet, how far we've come in giving away stuff for free or for nominal amounts shouldn't surprise anyone. And as consumers, we all benefit. I mean, only Blockbuster benefited for charging us \$4 late fees. Only Comcast benefits charging us more each year for cable. But then, there are unexpected consequences. Where has the print media gone? And where have the hard hitting exposes gone? Yes, they are still there, but for companies seeking out clicks, articles

about celebrities and the latest fad diet are going to get more play than the latest Wall Street scandal.

And where does all this leave us, the lawyers? That leaves us with clients who want to reap where they don't sow, clients who want something for nothing or at least for much less than what they're currently paying. Firms today give away a lot. They provide a lot of free legal advice in the form of newsletters, e-books, presentations, webinars, etc. They do this to attract new clients and keep the ones they have. Clients use the term "value-add." What value is your firm providing for free above and beyond providing legal services the client is paying for? Free training for a company's employees? Free continuing education for a company's claims professionals? We are going to have to give more and more away to get more paid work in return. And the clients aren't to blame. We have all come to expect more for less.

## Commoditization of Services

More and more legal services will be reduced to its basic elements, and an assembly line practice will become the norm for certain matters. Imagine a run of the mill fender bender with minor injuries. Much of what is done could be reduced to a checklist where form answers, discovery requests, subpoenas and notices of deposition are sent out automatically. Is this ideal? No. Is this practicing law? Not as we currently practice it. Is this fair to the insured? Perhaps not. But could such a process be set up to reduce legal spend while also protecting insureds? Sure. There's a tradeoff. For most low-end personal injury cases, this commoditization of services could work, and some of the money saved would be redirected for those cases where it didn't go as planned. The net savings, depending on the insurer, could be quite large. Removing the thought process from the practice as much as possible and automating as much of the practice as possible will result in savings for insurers and loss of jobs for attorneys. Where once lawyers handled 40 matters, much of what they did would be automated, and now they would be required to handle 80 matters. You used to handle 50 matters? Try 100 now. Assembly line practice will be coming to certain types of cases and firms will have to search out more complex matters to stay open.

## Pushing Down the Service Provider

Why have someone bill at X dollars an hour, when someone billing for less can do the same task in the same amount of time? Can a task be pushed from a partner to associate? From senior associate to junior associate? From junior associate to paralegal? From paralegal to legal assistant (who can't charge for her time)? Expect clients to dictate that certain tasks of a

lawsuit be handled by a given legal professional at a given rate whose time handling that given task can't exceed X amount of time. For example, a client may agree to pay for a junior associate to prepare initial discovery at the associate rate for up to X amount of time. Depending on the complexity of the matter and issues and facts involved, there could be greater flexibility about which legal professional handles which tasks and how much time they would be afforded to do so. Of course, fixed fees would avoid all this analysis. Furthermore, this analysis is data driven and a given client may not have sufficient data to make detailed proposals. Clients with large litigation caseloads in the same area, however, should be able to determine which person in the law firm hierarchy should handle a given matter and how much they should spend handling it.

## What Can They Get for Free

Who doesn't like free stuff? That's one of the oldest marketing tools. "But wait, there's more. Order now and we'll send you X for free!" "Follow us on Facebook and get your first X for free!" Free shipping. Free downloads. Free WiFi. Free internet. Free social media. Free, free, free. We have become accustomed to "free." Clients have become accustomed to it too. So some items we have charged for in the past we'll have to give away. And the firms who provide the most quality services for free are the ones likely to get the most attention from prospective clients. Here are some items clients expect for free:

- Free continuing education
- Free law updates
- Free training
- Free consultations
- Free reference guides
- Website with free resources

Firms are giving more away to attract clients. An insurer who needs continuing education for its claims professionals may be attracted to a law firm that offers free CE for its team. Perhaps throw in training to prepare claims professionals for their depositions and some roleplay to provide them firsthand experience and suddenly a firm has a client's attention. Firms are giving more and more away to get assigned cases in return.

## You'll Be Defined by What You Give Away

As clients come to expect more free giveaways, firms will be defined by what they give away. What is a firm's value-add? What beyond providing

superior service at a reasonable price does a firm offer? What can a firm offer to reduce a legal department's legal spend? Perhaps free in house training to help in-house counsel handle more issues and matters on their own? The irony shouldn't be lost on us that companies will expect us to train their legal staff for free so that they need us less and correspondingly we charge them less for our legal services. There is a bit of self-cannibalization involved, but if it means keeping or attracting a new client with significant matters, such an accommodation makes business sense. And who knows what else firms will give away in the future? Perhaps provide their clients empty offices in their office space? Sponsor events for their clients? Fundraise for their clients' charities? Expect clients to get more creative with their asks and firms standing in line to satisfy those asks.

## What They're Willing to Pay For

There will be matters that clients can't avoid hiring outside counsel and pay them well for their services. With the evaporating trial, seasoned trial counsel will become more rare, more in demand and will have greater negotiating power to set their fees. Class actions, multi-district litigation and other high stakes lawsuits which can potentially bankrupt a company will have in-house counsel seeking out the best counsel available even if that comes with a higher price tag. And there will be areas of law so specialized and intricate, that in-house counsel will have to select from a small cadre of legal experts, who too will be able to quote more generous rates. It's in these areas where firms will seek to congregate while more mundane litigation will be pushed down the food chain to lower and lower billers. High-end, high-risk, specialized litigation is where the money is and will continue to be. That work will remain profitable. Attorneys in other practice areas may not be so lucky. For those in less lucrative practice areas, they will be pushed into leveraging technology to reduce their costs and pass that savings onto their clients.

## Knowing What They Have to Pay

Clients want certainty and their cries for it will increase. Expect more flat fees and not-to-exceed fees. Clients, understand human nature, though, and if a firm's fees are capped, the client may be concerned they're not receiving the best legal representation. With this in mind, see a pendulum swing from flat fees to flat fees with a sweetener for good results. Win on summary judgment? Get a bonus. Get an expert disqualified? Get a bonus. Defense verdict at trial? Get a bonus. With more data, companies will see that providing their outside counsel financial rewards for winning above and beyond the flat fee, they will get better results. You reward the behavior

you want, and the analytics will bear this out, and hybrid fees which include bonuses will gain popularity. Clients will learn to balance flat fees with incentivizing good results.

## Sharing Client's Risks

Clients want their lawyers to have skin in the game. If a case outcome is poor, why should the client assume all the responsibility for it? If the case that should have resulted in a defense verdict results in a runaway verdict, why shouldn't the attorney bear some of the risk? Some clients feel that the loss of their future business isn't enough of a risk for their outside counsel. What if a firm had to pay back some of its fee after an unexpected result? That sounds draconian, but there are clients now considering fee arrangements where if they lose, their counsel loses too. And hopefully those clients are also considering fee arrangements where if they win, their counsel wins too. Clients want their outside counsel to be their partners, in both the good and bad times, and will be exploring more ways where outside counsel's compensation will be based on outcome. And again, there will be firms willing to assume the risk for the work and will normalize this fee structure in the near future.

## Limiting Risks

Pursuit of certainty will compel clients to explore options to limit litigation risks. With the right data and analytics, companies can evaluate the value of given litigation matters. If a client's data tells it that it will likely pay X on a matter via settlement, and that it runs the risk of paying much more at trial, why not set parameters early in the case with opposing counsel where the client agrees to pay no less than X if opposing counsel agrees her recovery will never exceed Y and the parties work toward resolving the matter within those bookends?. This discussion is based on data that shows a given case is not the type that will be resolved through a dispositive motion and will only be resolved through settlement or trial. If a given type of case generally settles between \$75,000 and \$100,000 and costs \$25,000 to \$35,000 in defense costs, and the case at hand is that type of case, the data is indicating that the client, all in, will likely be out of pocket \$100,000 to \$135,000 to resolve this case. Why not cut to the chase and try to resolve the matter early with Plaintiff's counsel for a number that saves, let's say, 25% off that range and saves both sides litigation expenses? Maybe even consider sharing some of this data with the other side showing them that this case is only worth X when his demand is well above X? The data doesn't lie. If there is sufficient data for a sampling size (and this would be particularly true if insurance

companies were able to share their data), then looking at the numbers could help bring a quick resolution to many litigation matters at a savings.

## Defining Outcomes

If the day comes where all companies share their litigation data (which, with an assist from Congress, may not be far off), companies will be able to predict outcomes. That will assist them to hire the firms with the best outcomes, pursue litigation strategies with the best outcomes, file dispositive motions with the best outcomes, pick off Plaintiff attorneys with the worst outcomes, settle for the right amount and choose the best cases to take to trial. Will all this data give companies a crystal ball? No. They won't be able to predict the future, but, boy, they will come close. With enough data and the right data, predictive analysis will come close to being foolproof. Hunches and intuition and experience will give way to the data. Eliminate most of the unpredictability and litigation will be streamlined. Translation—less work for lawyers. To make up the difference, law firms will work with clients to develop predictive analysis and will make money by helping their clients pay other firms less. Successful firms will be in the business of putting other firms out of business.

## Anytime/Anywhere Access

It's unfair to expect any given lawyer to be on call 24/7, 365, but clients will expect their firms to do just that. Right now, nights, weekends and vacations are no longer ours as attorneys. With the globalization of law, this will only





get worse. Firms will have to develop processes to triage emergencies, calls, texts, instant messages, emails, etc. to ensure that clients receive the right answers in the shortest amount of time possible. Working at the speed of business where the right answers are provided right away will distinguish top firms from their competitors. Developing a reputation as a go to firm which is always on call ready to answer a legal question in a pinch will translate into more clients and more business.

## Speed of Business

Just how fast will business operate in the coming years? How many more decisions will professionals have to make, how often will they rely on lawyers to make those decisions and how fast will lawyers have to provide input for those decisions? Providing legal and business advice quickly and accurately is going to depend on attorneys who are experts in their fields and research resources that supplement that expertise. A compliment of lawyers who can identify issues and address some of them and artificial intelligence that can address the remainder will provide business quick and reliable answers. With the help of AI and business and litigation data, lawyers will provide more accurate, more fulsome responses in less time. Legal tech will be directed to help lawyers reduce their response time to the point that most questions will be answered in real time.

## Quick, Accurate, Thoughtful Answers

Many service industries track response time. They track how long customers have to wait on calls, how long those calls take and whether the customers' questions were answered to the customers' satisfaction. Clients measure the quality of customer service they provide their customers. Clients will want to measure their customer satisfaction with their outside counsel too. Expect clients implementing methods to track response time, quality of responses and general satisfaction to determine which outside firms are providing the best customer service. Lawyers are in the service industry and providing quality service on the client's terms is what clients are searching for. To find the best service, clients will take additional steps to measure the quality, speed and value of that service and will make hiring decisions on that basis. It may not be long when in-house counsel fill spot check surveys after calls with outside counsel measuring customer service and this information is gathered, measured and studied and grades are assigned to outside counsel for the quality of their service.

## Business Partner

Clients want business partners. They want lawyers who invest the time and energy to learn their business, understand their mission, share their values, and pursue their goals through their legal representation. They want proactive counsel who help them see the obstacles and challenges that lie ahead and assist in charting a course to avoid or overcome them. In requests for proposals and information gathering sessions, clients will move beyond questions about how firms can handle specific matters or categories of matters to what ideas and solutions firms have to address their broader business concerns and issues. Those with JDs will be asked questions often reserved for MBAs to flesh out firms who are focused on the client's business propositions and how to improve their profitability and decrease their costs. Firms who think value added, how they can not only address a company's legal concerns, but business ones too, how they can help reduce their legal spend while boosting their profits, will be the ones selected to be outside counsel.

## Tech Partner

Law firms can distinguish themselves if they partner with clients to help them develop legal tech which streamlines their claims handling and increases predictability as to costs and outcomes. Clients can enjoy many benefits from legal tech and law firms can help them develop and implement it. Yes, law firms are not tech gurus, but they can work alongside clients and clients' tech folks to develop and beta test software and apps that will improve the litigation process for their clients. Lawyers know what it takes to win a case. This knowledge and wisdom translated into code by programmers can result in legal tech that can revolutionize a client's case intake, handling and resolution. In-house counsel are looking for partners to assist in identifying how technology can improve the quality and efficiency of legal services and those partnerships offer valuable opportunities to develop more business for one's firm.

## Problem Solver

Law firms which can solve their clients' problems—not just litigate and resolve their lawsuits but can solve larger problems, including providing solutions to disruptive market trends, overzealous competitors, fickle customers and lagging sales—in short, not just address their legal concerns, but their larger business concerns, will become legal/business advisors to the largest companies. Law school trained us to solve legal problems and that skill set can be applied to solving larger business problems too. Defining

the issue, developing a plan to address the issue, implementing the plan and following through to completion is a process we engage in every day and it applies equally to winning a case as it does to increasing market share or bringing a new product to market. Lawyers who apply their problem solving skill set to issues that go beyond legal matters, and do so effectively so their counsel transcends advising on a given case and goes to advising on the future viability and growth of a company, will be in high demand.

## De Facto In-House Counsel

To save costs, companies may borrow a firm's attorneys and pay them fixed salaries to serve as de facto in-house counsel. Instead of simply poaching attorneys from outside firms to join their legal departments, more and more, clients may want attorneys with one foot in a firm, and everything it has to offer, and one foot in house and the business acumen that accompanies it. In-house counsel understand the business side of their cases but may not have the daily exposure to litigation and everything that comes with it, and the opposite is true for outside counsel. So a hybrid position where outside counsel becomes in-house counsel and receives a fixed salary to reduce legal spend will become more commonplace.

## Where You Can Still Make Money

The future profitability of law is not all bleak. Despite each and every effort by clients to reduce legal spend, there will always be litigation and firms who develop the means and processes and apply creativity and technology, will be able to handle them effectively, efficiently and at a profit. Firms that partner with clients to solve their business and legal problems and assist them in defining protocols, processes and procedures and apply technology to decrease costs, improve productivity and increase profits will be at the forefront of law firm profitability. Firms that reduce a client's legal spend by charging less and enabling the client to find efficiencies, shortcuts and other means to save both on legal fees and settlement amounts will be in high demand and their profitability will increase. The firms who play it smart will do well for themselves.



# How Social Media Will Affect Your Firm

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## Your Firm's Social Media Footprint

More and more, your firm will be defined through social media. With clients spending more time on social media, receiving more information and news from it, interacting more with others through it and relying more on it as a resource for legal information and advice, firms will want to invest more on their social media footprint to make it more robust, informative and valuable to prospective clients. More clients will learn about firms through social media than through any other means, including firm websites. The thing with websites is that others have to seek them out or be directed to them. With social media, they're already on it, using it, learning from it, engaging with others on it. My presence on LinkedIn receives substantially more attention than my presence on my firm's website. At the time of this writing, I have over 32,000 LinkedIn followers. The analytics for my page on my firm's website does not come close. Social media allows us lawyers to go where the clients are as opposed to dragging them to where we are. And because they are there, and they are paying attention there, firms need to have a plan regarding which social media to pursue, how to pursue, what content to push out, how to interact with others on social media, and most importantly, respect the individual personalities of its attorneys on social media while simultaneously having everyone move in the same general direction, with the same purpose and goals.

Pushing out content, including free publications, webinars, podcasts and other resources through social media will provide smaller firms outsized footprints. Regular posting, with value added content can result in regular viral posts that shed light on a firm and attracts prospective clients.

## Your Social Media Score

With so many firms pushing out content on social media, how will clients decide who to follow? Expect companies to create algorithms that score firms' and attorneys' social media presence to determine its value to users. It may not be long that my LinkedIn presence is provided a rating based on the frequency of posts, content of posts, responses to those posts and the value of the free content I push out through my LinkedIn profile. LinkedIn, or a third party, may cull all the data and determine that for attorneys who are searching for practice pointers should follow me, and assign me a high score and in so doing, push more traffic my way. What value—whether educational, informational, or otherwise—does a given firm's social media presence offer? Certainly social media allows firms to promote themselves—highlight victories, appointments, promotions—which focuses the spotlight on why clients should hire them. But expect firms whose social media is entirely or largely focused on self-promotion to receive poor social media scores. No

one doubts this information is important, but clients want more and firms who offer more, much more, will receive higher social media scores and will secure a larger slice of the social media pie. On social media, content is king and content will result in the attention firms want.

## The Evolution of LinkedIn, Facebook and Twitter

New social media evolves based on what's lacking in existing social media. The big three—LinkedIn, Facebook and Twitter—understand this and will evolve to keep their current members while attracting new ones. Expect greater opportunities for law firms to micro target prospective clients by ensuring given posts find their way to specific individuals at specific companies. Taking it a step further, these platforms may tell law firms what their prospective clients want, how they want it and how the firms can deliver it through their platforms. Giving its members targeted access to other specific members on the other members' terms, providing them the information they want, will facilitate planting seeds that will grow into meaningful business relationships. As far as law firm marketing goes, we lawyers want to connect with clients whose needs match our services, and we want to do so on their terms to make the most of any interactions with them. We certainly want to avoid any overtures that undermine the potential of an ongoing business relationship. The big three will innovate and find better ways for firms to do this through them.

## Law Firm Rankings

National firms seek top rankings in the nationally recognized ranking systems. They want to be the best of the best, and who can blame them. But a client may not want, need or choose to spend the money on one of the best national firms. Their needs may be better suited to a regional or a local firm. A specific attorney in a specific city may be the best fit for them. But how do you rank everyone? How do you address every conceivable client need and want via a ranking? Expect more rankings, more fulsome rankings, and different types of rankings that go beyond the biggest and the best and address the right firm for the right client for a given case. What's the best firm in a given practice area for a given price range in a given location? There will be companies who will find ways to make money from creating and distributing these lists and firms will expend time, energy and money to get on the lists that make the most sense to them and will attempt to secure as high a rating as possible on those lists. Having others say you're the best as opposed to tooting your own horn is better PR.

## Law Firm Ratings

With lawyers wanting to tout ratings, expect more entities to rate more lawyers with their seal of approval which lawyers in turn can use to market themselves. Also, expect more Yelp-like reviews of lawyers and more detailed information about lawyers' win-loss percentages at hearings and trials. Results matter to clients and your individual and firm results will be culled and made available to prospective clients. Firms will spend more time highlighting their wins, seeking favorable reviews from clients and addressing unfavorable ones. Just as reviews can make or break a restaurant, smaller firms will have to be more vigilant for online reviews and ratings and become more proactive to ensure a few disgruntled clients don't undermine their brand and reputation and possibly shut their doors.

## How Data Mining Will Define Your Firm

Expect all publicly available information about your firm to be mined, gathered, sorted, analyzed and made generally available to prospective clients. Every motion you file, every order, every court and trial ruling, every possible outcome that's been reduced to writing and is in a clerk's file, online or elsewhere, will be reviewed, summarized, analyzed and shared with prospective clients. Clients will be able to see your work product, the results of your work product and know when you win and when you lose. Based on the data available, prospective clients will see what cases you handle the most, how well you handle them, your rates, your legal fees, your results, your successes and failures, and will be able to draw their own



conclusions whether you have the horsepower to represent them. Maybe you're the right attorney for a given case before a given judge against a given attorney and maybe you're not. These services will allow clients to micro target prospective lawyers to find just the right lawyer for their case. You say you're the best? Clients will want the data to back up the claim.

## Clients Getting in on the Action

Clients, particularly insurers and multinationals, have accumulated a lot of data on their outside counsel. Some have already begun mining that data. More and more clients will take a deep dive and study that data closely to evaluate which firms are best serving their needs. Clients will also reach out to third parties to supplement their data. Personal relationships with firms will be supplemented and possibly supplanted with data showing which firms, and more specifically, which attorneys at which firms, are the most efficient and most effective. Results have always been important for clients, but evaluating results have been imperfect—until now. Now, clients can dive into the weeds and have more objective markers to evaluate which firms are serving them the best. There is a cost with processing and analyzing so much data, but as Facebook and Google have shown, the value of the data far exceeds the cost and many clients are realizing this and doing what the tech giants have been doing for years.

## Knowledge Sharing

After companies mine their own data, the natural next step is to share data with one another. Once companies can figure out how to do this without violating privacy rights and federal and state statutes and regulations (and if need be, pursue new legislation), they will have data from every county and municipality in every state involving every type of case, every judge, every trial lawyers (both plaintiff and defense), every trial, every hearing, every settlement and every judgment. Talk about meritocracy. The data will separate the wheat from the chaff, the doers from the talkers, the winners from the losers. Of course rewarded behavior is replicated behavior. Once firms know that everything they do and every result they achieve, good or bad, will be used to evaluate whether they should be hired on the next case, there will be a shift in firm resources from marketing and other areas to training, quality control and processes to improve the firm's numbers. Obviously, firms are always working to improve themselves, but what data sharing across the board, there will be no place to hide poor results. All that can be done is improve them.



## No More Secrets

There is a scene in a spy movie I saw years ago where the protagonists, who are figuring out a password for a decoder, pour out Scrabble tiles on a table and spell out “no more secrets.” That’s where the legal practice is headed. No more secrets. Those firms who oversell, overreach and exaggerate their expertise and results will be confronted with their own results by prospective clients. Firms that are good at what they do will have to do little marketing to highlight their wins. Clients will already know and will already be attracted to them. Imagine a large consortium of data that corporate clients of all sizes contribute to and pay a reasonable fee to access. Why rely on marketing materials, word of mouth or personal relationships, when the best lawyer for your specific case is at your fingertips? This world where every client knows everything about every firm imaginable remains far off, but it’s coming. It’s time to start getting ready for it.

## Everyone Has an Opinion

Our technology has created a society where everyone has an opinion and feels the need to share it. These days, you go to a restaurant, you post a review. You stay at a hotel, you post a review. You hire a maid, lawn, moving or home repair service, you post a review. Everyone has an opinion and everyone feels that everyone else needs to know their opinion. Some clients already rate attorneys, opine on them and freely share their opinions about them. Expect more websites and apps directed to opining on lawyers and law firms. These sites won’t be limited to individuals who rate personal injury, divorce or personal bankruptcy lawyers. Corporate clients will rate attorneys as well. Corporate clients will opine how you handled their last employment matter or slip and fall, how you prepared them for depositions or how much you charged them. Of course there will be clients who don’t want to participate and not open themselves up to a possible defamation suits. But more and more corporate clients will dip their toe in the attorney review waters and eventually dive right in. Every interaction you have with a client may become the subject of a review.



# The Future of Marketing

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## Paperless Marketing

There was a time firms were drowning in printed brochures, pamphlets, newsletters, inserts and folders stuffed with materials. Some firms have made their marketing paperless and this trend will continue. It's not simply to save money. Clients prefer to learn about your firm on their computers or phones. In a paperless society, who wants more paper? Professionals are even ditching business cards in exchange for virtual cards that can transfer from one phone to the next. Electronic marketing allows a firm to micro target clients by creating marketing materials geared to specific clients. Instead of printing 500 copies of the same brochure on expensive paper stock, a firm can create several permutations of the same e-brochure and email or post it at little or no cost. Firms will create templates of brochures and newsletters with firm and stock images that its attorneys can drop copy into and send to clients. Firms will be able to create literally hundreds of e-materials, all held together with a similar look and design to reflect the firm's brand.

## Law Firm Websites

Firm websites will play an integral role in a client's decision to hire or take a pass on a given firm. Websites will provide more detailed information about a firm's experience, successes and processes, so clients can get answers to every conceivable question they may have when deciding to hire the firm. Websites will also be a source of valuable free resources to attract prospective clients to it and create an incentive for prospective clients to hire the firm. Firms will compete to create go to websites which clients visit regularly, preferably daily (or even multiple times a day) for all the up to date legal and business news, legal trends, answers to legal and business questions and educational resources. A firm website that can provide clients with all the resources they need and want and direct them to a firm attorney who can handle matters in their areas of need will become the gold standard for law firm websites. Of course, websites like this will cost a lot and demand a lot of attorney hours to create legal and business copy, articles, webinars, podcasts, etc. As clients seek one stop shopping in law firm websites, smaller firms will have to leverage social media to compete. A small firm may not be able to compete with the behemoth law firms and their bottomless resources and staff pumping out content on their websites, but individual lawyers at small firms can establish international reputations on social media, amass tens of thousands of followers, and become a go to resource for prospective clients.

## Attorney Bios

It seems lawyers are constantly updating, tweaking, revising and modernizing their law firm website bios. New designs, new photos, links to new articles, podcasts, webinars, etc. Future bios will be even more fulsome. They will continue to provide all the traditional information bios contain today—education, awards, experiences, etc. In addition, they will provide more information about their relevant experience and victories, more multimedia in the form of personal videos and more personal information, particularly charitable and community work. And all of this will be presented in such a way so that it's neither overwhelming nor jarring. If you want basic information, click here. More info, click here. Even more, click here. A prospective client will be able to dive as deeply as they like into the background of an attorney and have access to everything the attorney has published, every speech and presentation she has given, and every webinar and podcast she's done. The firm will make its attorneys open books for clients to peruse at their leisure and get to know them as much as one can get to know someone online without actually interacting with the person. Don't be surprised if these bios one day will be uploaded to an "attorney dating" site, where clients can search for the attorney of their dreams. "What, the attorney has won two summary judgments on the same type of case I have and volunteers at the local shelter and loves Vonnegut? I need to swipe right."

## Results Backed by Data

Firms will share data reflecting their results—their wins (trial, summary judgment, motions to dismiss), their cost efficiencies (how quickly and cheaply they close cases), their client satisfaction (through client surveys and third party websites gathering such information) and expertise (what others are saying about them being the go to firm for a given practice area). Gathering, filtering and presenting data reflecting a firm's positive results and reputation will enable firms to highlight their expertise backed by data, which will reinforce their message that clients should hire them. Clients want to hire winners who are efficient and well-liked by their clients. Firms will search out and serve on silver platters any data that depicts them in this light. Expect slogans, catch phrases and taglines by firms highlighting their results or asking prospective clients to ask about their results.

## Attorney Ratings

Companies compiling and analyzing attorney dating will develop attorney ratings based on the data. An attorney may receive an A, B or C grade, or may be considered the 23<sup>rd</sup> best attorney in Miami for defending employment

discrimination matters. There will be disclaimers galore and defamation lawsuits to follow, but creating and selling attorney rankings will be too tempting a source of revenue for companies to generate their own ratings, rankings, listings, etc. We already have AV ratings. We already have various best, super and elite lawyer lists. These new lists will be different because they will be more detailed, more robust and presumably based on more data. They will be more user friendly, where clients can click on the rating and get access to all the attorney's data that made up the score. And it won't just be the top 10 lawyers who get all the attention. The list will keep going down to the bottom 10 who hold themselves out in a given practice area. These lists will have the potential of putting the worst attorneys out of business.

## Testimonials

With more and more clients posting their opinions, both good and bad, on various ranking and rating websites, lawyers will want to set their own agenda and direct the conversation on their own terms and will want to post more testimonials and more detailed testimonials on their websites and through their social media posts. States that prohibit testimonials will likely come around in a society where everyone has an opinion and everyone shares it. A compromise may require firms to provide disclaimers on their websites or links to other websites which have both positive and negative reviews in the interest of full disclosure. Many other professions rely on testimonials for business and attorneys will rely upon them more and more. There will be more rules and parameters on how lawyers can rely and post them but there will also be more opportunities to share the opinions of satisfied clients.

## Access to Work Product

Efforts have been made to create online research databases that law firms contribute to and in-house counsel have access to. In-house counsel get free research memos and firms get to show off their legal acumen. Expect some clients who send a lot of their work to a given firm to demand access to that law firm's research database. But what about attorney client and work product privileges related to the research memos? Some clients will ask for, and for the right price (either in terms of more case referrals or for a separate fee) will be provided access to a stripped down research database absent any other client information, facts or details. When in-house counsel has a legal question, they'll have access to this shadow research database and will try to find answers to their questions without having to call a lawyer at the firm and pay for her time. In effect, firms will be asked to lease their work

product to clients, and as with everything else, some firms will be happy to do this for the right client at the right price.

## Meeting Client Criteria

Clients will create a plethora of criteria that outside counsel, if they want the work, will have to meet. This goes beyond rates and litigation guidelines. Expect more emphasis on diversity. Expect demands on what technology to use and how to use it. Expect demands on accessibility, responsiveness and efficiencies. Don't be surprised to have clients ask you about your overhead and suggestions on how to reduce it. They realize those costs get passed to them. Expect more oversight, more managing (even micro managing) and more standards imposed by clients. Expect survey of all of a firm's and its attorneys and staff social media to flag any inappropriate posts or commentary. On the business side, these clients are accustomed to dictating to vendors how the work should be done. Clients are becoming more accustomed to interact with their law firms on the same terms.

## Free Stuff

Clients want to get as much as they can for free. Free consultations, free training, free advice, etc. In addition to free webinars, newsletters, legal updates and the like, firms may offer free consultations or offer them at a bulk rate. Firms may agree to provide X number of hours of legal services per year for free or offer a subscription service where clients pay a yearly flat rate which entitles them to certain services, such as responding to certain types of legal questions or consulting on certain issues. Clients will explore with outside counsel how much they can get for free and firms will explore what additional services they can provide the client for a fee to make up for the loss of revenue caused by the freebies. If all we do is sell our time, and our clients want more and more of it while paying less and less for it (and trying to get as much of it for free), firms will have to find ways of generating revenue that goes beyond the billable hour. This will need to sell other services, perhaps software licenses or e-discovery resources, to augment their revenue stream. Getting a larger slice of a company's legal spend and access to providing non-legal services may enable law firms to charge less while still making more.

## What Is Old Is New Again

Anachronisms are back in style. In a society where more (and unfortunately, in some cases, most) of our interactions occur through our smart phones, there

is a desire, which will grow, to “old fashioned” methods of communication and relationship building. More lawyers will write hand written lawyers. Expect an uptick in personalized stationary and fountain pens. Expect more personalized gifts like hardcover books with handwritten notes or antique items reflective of a simpler time. Expect more travel to meet clients. Expect more outings with referral sources. More phone calls. More in-person meetings. More lunches. In short, throwback marketing.

And the practice of law will also experience nostalgia. More house calls. More firms on retainer. More personal relationships. More lawyers serving as advisors, not just on legal questions, but on a broad range of issues. Lawyer as advisor, counselor, fixer—more hats and more roles. Lawyers providing more than simply legal advice will be in vogue again.

## **Relationships Will Still Matter**

Most marketing consultants agree that business and business referrals are built on relationships. You refer business to those you know and trust. Even with all the data dictating which attorney is the best for a given matter, clients will still want to select those they know or those that come recommended by their peers. Not only will clients rely on data to hire the best, they will rely on personal relationships and personal judgment to hire the best lawyer who is the best fit for them. Lawyers with proven reputations with personal relationships with prospective clients will be best positioned to secure new business in the new legal economy. Results will mean more than ever in a data driven society, but results will need to be coupled with the personal touch. It’s where cold data will meet the warmth of personal relationships and each will complement the another.

## **New Ways to Build Relationships**

Relationships will become more of a hybrid of in person and online interactions, shifting to more virtual and online communications. Deep personal relationships take time, energy, effort and genuine concern. Each of us can only have so many of these. Beyond these deep rooted relationships, folks will develop more virtual relationships through followers, friends, connections and the like on social media. Lawyers will try to develop large followings through posts, links, shares, articles, podcasts, video and webinars. Casting these broad nets, and spreading them further and further out, attorneys will put themselves out there with the hopes of not only attracting attention but attracting the attention of prospective clients who through this virtual relationship reach out and develop a more personal, more meaningful relationship which results in business referrals. If

you have 50,000 followers on LinkedIn and 50 prospective clients want to get to know you and your firm better, that's a better use of resources than individually reaching out to others, where you may only secure a handful of leads. Leveraging quantity will be the new paradigm.

## **Tried and True Marketing**

The traditional marketing efforts will still be pursued. Getting involved and leading voluntary bar associations and trade organizations. Speaking and writing. Networking at social events, cocktail parties and volunteer projects. Serving on the board of nonprofits. Sending handwritten notes, making personal calls and meeting for coffee or lunch. Participating and attending trade shows. The way lawyers and all professionals have generated business for decades will continue. It will be supplemented by social media, tech and other societal changes, but what worked 50 years ago will still work. We are social creatures. We need and crave human interaction. There will always be room for and a need for good old-fashioned personal relationships.

## **Social Media**

Social media is always evolving. There are new platforms that offer new opportunities and ways of communicating online. We've moved from Facebook, Twitter and LinkedIn to Instagram, Snap Chat and others. There will soon be a new generation of social media and one after that and so on. With platforms like Facebook trying to serve everyone, more platforms will pop up catering to specific subsets of groups serving their particular needs. Expect social media outlets for not only attorneys, but for attorney subgroups—diverse lawyers, criminal lawyers, IP lawyers—where a group of like-minded attorneys can interact with one another online. The evolving social media landscape offers entrepreneurial lawyers an opportunity to create their own social networks for attorneys and generate revenue through advertising, much like Facebook does. The advantage these micro social media sites have is that their clientele have similar needs and interests, so it's easier to identify and pitch prospective advertisers, as opposed to having to mine and analyze user data. Firms may already be laying the foundation for these new social media sites.





### **I Wish I Could Snap My Fingers And...Snap Away**

As science fiction becomes science fact, and ideas that once only existed in the imagination have become reality, it's time for us in the legal profession to ask ourselves "If I could snap my fingers, what would I want technology to do for the practice of law?" Advances in technology allows us to be as imaginative, creative and out of the box as we want. So if there are no limits, no boundaries, no restrictions, what can we conceive of? What changes do we want? What do want technology to do? Let's take a minute and reflect upon what may be possible.

### **What Data Do We Wish We Had?**

As lawyers, if we could have any data we wanted, what would we want? We would want to know how our judge rules on the motions we're arguing before her and what evidentiary rulings she makes at trial. We would want to know how opposing counsel has performed before the judge. We would want to know the types of questions opposing counsel asks in deposition and how she asks them. We would want to know what motions she files, what she argues in those motions and her success rates when arguing those motions. We would also want to know everything we could about our own clients and their approach to cases similar to the ones we're handling for them. In short, we want to know everything we can about opposing counsel, opposing party, the judge, the jury venire and our client. We want to know how they think, how they react, how they plan and how they decide. What if there is enough publicly available information to learn these things? Court records. Online databases. Deposition, hearing and trial transcripts. Information gathered from social media, Google and other websites. Companies may provide us profiles of everyone in our cases and predict, based on data, how they'll act. Intuition and experience may be replaced with data.

### **What Research Do We Want?**

Legal research has evolved since our days of law libraries with case reporters, statute books and treatises. Let's go beyond how we research now on Westlaw. What if Westlaw provided us access to every motion and order countrywide, and to take it a step further, identified for us the most relevant motions and orders related to our research? And taking it a step further, identified for us, by percentages, the winning arguments in those motions? What if you want to prepare a Motion for Summary Judgment on issues A, B and C? It would be great not only to find similar motions, but find winning ones on those issues. And to put a finer point on it, find

the winning arguments in those motions, the ones the court seized upon and served as the bases for favorable orders. Research has moved beyond finding the right case, statute or regulation. It's finding how others have used them persuasively so you can replicate that. More importantly, finding a way to replicate it for your specific judge to convince her of your position. Now that's legal research.

## What Features Do We Want Our Legal Search Engines to Have?

There are two aspects to any research project. There is the research itself and reducing that research to writing in the form of a memo or motion. Wouldn't it be great that your legal search engine not only helped you find the best case but reduced it to writing in such a fashion you could cut and paste it into a motion? Will Westlaw be writing our memos and motions? Not entirely, but they will provide us the building blocks to do so. When you think through the phases of drafting a substantive motion, there's the research, there's converting that research into arguments and support for legal issues, there's tying everything together and drafting a seamless motion. Deconstructing case law and assembling it back together into coherent, compelling arguments which can be dropped into motions to be massaged and finessed may be done by a search engine one day.

## Predicting Behavior

Years ago I read a book on body language. I quickly forgot both the title and author but never forgot its central tenant—past behavior predicts future behavior. Study how a person reacts to a given situation and he will react the same when the same situation arises. For example, study someone when you know he is lying, either to you or someone else. He will display the same body language the next time he lies. If you're not sure he's lying, but he's demonstrating the exact mannerisms he displayed when he last lied, odds are he is lying now. This technique is one I've used for years and based on personal experience I've learned most people do not change or evolve and that their "tells" remain the same. We'd like to think we change. Most of us don't. What if there was a way to predict opposing counsel's behavior? The opposing party? The judge? The jury? By securing as much information as possible about past behavior, we will be better positioned to predict future behavior of friend and foe alike.



## Predicting Opposing Counsel's Behavior

Companies will mine all the court records to help us predict opposing counsel's behavior. That's already begun. The next natural step is to mine all the publicly available information about the attorney—her publications, presentations, social media, etc.—to create a profile of her likely behavior. What is she likely to do in a given situation in your case? How likely is she is to settle? How likely is she to choose one set of actions over another when deposing your client, pursuing discovery or arguing a motion? And will the day come that we can purchase each other's social media data that Facebook and others have of us? Google, Facebook and others sell our data to advertisers. Maybe one day we'll agree in return for using their services for free that they be allowed to sell our data to anyone who wants to purchase it. And with that data, companies could provide us a whole host of conclusions about opposing counsel. It's amazing how much privacy we'll give away as a society in return for getting something, *i.e.* social networking, for free.

## Predicting Expert Behavior

Whether it comes to hiring an expert or cross-examining the opposing party's expert, we want to know as much as possible about an expert and how she will testify. Is she a strong witness? Does she do well under cross-

examination? How does she perform at trial? Does she have any skeletons in her closet? What weaknesses as an expert does she have? In cases where there is a battle of the experts, you want to take the necessary steps to ensure you have the better expert—stronger credentials, better witness and superior opinions. Right now, most lawyers rely upon other attorneys' opinions and deposition and trial transcripts when it comes to hiring and cross examining experts. What if all of an expert's testimony—depositions, hearings and trials—were fed into a program and it graded the expert in various categories and provided input on what topics an expert is most susceptible to impeachment and provided specific questions to ask the expert to impeach him? Knowing everything there is about an expert will allow attorneys to make informed decisions about whether to hire him, and if he's on the other side, how to cross examine him.

## Predicting Judges' Behavior

Judges' orders are available online. Their rulings at hearings and trials are in the hands of court reporters and attorneys. Someone someday will amass all of them, apply algorithms to them and tell you what motions win, what arguments win, what words win, what cadence wins and what style wins. It won't be just whether a given judge grants a given type of motion. It will be what specific arguments, cases, positions, analysis and presentations work best before a given judge. What are the judge's pet peeves? What resonates with her? What arguments fall flat? Past behavior predicts future behavior. Knowing how the judge has addressed your case, issues, clients, opposing counsel, facts and law in the past will allow you to position yourself to secure the most favorable outcome from her in your case. Nobody likes to think they're predictable or that others can guess what they'll do next, but the right data can provide predictability and knowing the likely outcome before it happens eliminates a lot of the guess work from litigation.

## Predicting Jurors' Behavior

All of us have biases, opinions, predilections, views and perspectives that define us. Jurors are no different. Today, attorneys and their consultants, through thorough voir dire and publicly available information, decide whether a prospective juror is favorably or unfavorably biased toward their client. But is it fair to clients and the process to seat jurors who have deep seated biases that were never discovered because those biases were hidden away in private posts or online searches that never saw the light of day? Wouldn't the most fair thing to do would be to require access to all

of a prospective juror's online data to ferret out any biases? What if you're representing a party in a racial discrimination action and a prospective juror is a closet white nationalist? Lawyers can ask prospective jurors about their opinions and prospective jurors can lie. The data on their computers, tablets and smart phones don't lie. If we want true transparency, warts and all, maybe the time has come for jurors to share everything. Certainly in criminal cases, where a person's freedom and possibly even life, is on the line, due process would suggest such steps are necessary.

## Predicting Results

What will a case settle for? If the case goes to trial, what will a jury award? With enough data, one can predict results with much greater accuracy than how we lawyers do today with our back of the envelope calculations. Clients hate the unpredictability of litigation. They hate turning their fate over to a judge or jury to decide, having only vague and incomplete understandings of how everything will turn out. Knowing what cases settle for, knowing what juries award, knowing how courts will rule—these are the answers clients crave. Gathering data from multiple sources—court files, insurance files, client files—in such a manner that it doesn't violate privacy rights (or perhaps lobby to rewrite those rights) and makes it accessible so a client has a more accurate, more fulsome understanding of the risks involved with a given lawsuit, is the goal. Predictability is based in part on the size of the pool of data, the relevance of the data and its interpretation. It's akin to the analysis we read in medical and science journals. The data is out there. It won't be long until someone figures out how to access it all. Once they do, analyzing and interpreting it will quickly follow.

## Answers to Our Legal Questions

Legal search engines help us find research to address our research questions. What if they could answer any legal question we had, drawing out the exact language from a case or statute that answers our questions? What if they eliminated the step of connecting the dots between our questions and the responsive research and simply provided us the answer followed by the legal support? Right now we reduce our legal analysis to legal issues which we further reduce to search terms on Westlaw to find law addressing those issues. It's possible one day we simply type the overarching question into the search engine and we receive an answer and research excerpts that answer the question which we can plug into a memo or motion and massage it into its final work product.

## Memos on Our Legal Questions

Once search companies learn how to answer our research questions the logical next step is to reduce those answers into memos of law. What we are talking about is a continuum which started years ago with legal search engines facilitating what we used to do with books and moving along the continuum until most of the analysis and writing will be performed by these legal search engines. Clients will embrace this because the subscription service to such a search engine will be less than what firms pay their associates for the same work. With all this work being outsourced to computers, firms will find they have too many associates on hand, leading to a reduction in the attorney workforce. Technology has decimated the manufacturing job sector. Its impact on the legal sector won't be as severe but it will be felt.

## Programming Creativity

Professionals like to believe that the mundane, the rote and the repetitive can be replicated by computers, but not ideas, creativity and cleverness. But what if we could program creativity? What if we could teach computers to come up with their own ideas? Let's talk about how we as individuals develop our creativity. It starts with exposing ourselves to a wide variety of books, art, music, movies, stories and publications in a wide variety of arenas, topics, genres and ideas. We can feed a computer all this information. Once we expose ourselves to a broad spectrum of information, stories and ideas, we draw from different fields, genres and categories and allow the diverse to bounce off each other much like heated molecules. We can teach a computer to do this. And after having what's different collide and push against one another, creativity is born. By applying new filters, paradigms and prisms we see old things in a new, different light. This is how inventions are born. How advances are made. How revolutions evolve. This too can be taught to a computer. In short, we can teach computers to be creative. And if we can teach them to be creative at the macro level, we can teach them to be creative at the micro level when it comes to analyzing our individual cases. Each of us can learn to be creative. If we can teach ourselves to be creative we can teach a computer to be creative too.

## Manufacturing Epiphanies

Those "aha" moments. We all crave them, pursue them, search after them, often left frustrated seeking them in vain. These grand ideas. These game changers. These paradigm shifts. In the pyramid of ideas, they are at the apex. By looking at things differently, by approaching a problem from a different vantage point, solutions jump out at us onto our laps. As individuals,

we have a limited amount of time and resources to constantly be reflecting on the pieces of the puzzle and concoct a new way to assemble them. But what if you had unlimited time? What if you had unlimited data to put together, take apart, reassemble again, take apart again, put together again differently? How can a computer beat a Grandmaster at chess? How can a computer win at Jeopardy? The process for us to have epiphanies—much like breaking of molecules into atoms which come together again to create new types of molecules—can be replicated and taught to computers, and they can they assemble, reassemble, organize, separate, destroy, revive, and reanimate much faster than we ever could. Accordingly, they can be taught to pursue epiphanies that often elude us. And it is these big ideas that differentiate the great lawyers from the good ones. One day, these great ideas will differentiate AI from the great lawyers.

## Programming Ideas

Where will the future ideas for legal tech, law firm management, attorney marketing and law firm design come from? Perhaps they won't come from us but from the tech we design and use. What if the tech revolution is led by tech inventing itself? Can we teach tech to define a problem, devise a solution, create a plan to implement the solution, execute the plan and by doing so, solve the problem? Can we create tech that removes us entirely from the problem-solving process? It seems far-fetched, but no doubt, there are some who today are trying to do just this, to accomplish this. And if a computer can one day solve problems on its own, what problems will it choose to solve? And will it consider us to be part of the problem?

## The Virtual Lawyer

It's hard to imagine a computer replacing a lawyer, but we can imagine a computer replacing some of what we do, and for some of us, replacing a lot of what we do. Technology has allowed firms to reduce their staff sizes dramatically. The next logical step is for technology to allow in-house counsel to reduce their outside counsel, and for companies to reduce their in-house counsel. No one is immune. Legal tech starts on the periphery, handling more mundane, easily replicable tasks, and it moves inward, addressing more in depth, more thoughtful, more complex tasks. It's ultimate goal is to get to the center and dominate the most complex tasks lawyers perform, but even if it comes short, well short of that, advances in creating a virtual lawyer will forever change the practice. We lawyers need to assume the role of programming the robots and not simply be replaced by them.





## Artificial Intelligence

AI is transforming the practice of law. AI is becoming integral in e-discovery, contract review and drafting, research and drafting of memos, trial prep and attorney marketing. With self-teaching, AI can evolve from having average research and drafting skills to expert ones. With predictive analysis, AI can predict future judge and jury behavior. AI will help firms automate easily replicable acts, passing the savings to clients, who will reward the firm with more work. Machine learning coupled with natural language processing will allow AI to more naturally communicate with lawyers and possibly directly with clients and better serve their needs and answer their questions. Clients will want to know how AI can save them money and firms adopting AI to achieve that objective will be in high demand. It is ironic that law firms will spend a lot on tech to bill less, but by doing so, they will attract more clients seeking new ways to save money.

## Data Mining

More and more litigation related information will be mined, analyzed and shared to make more informed decisions when litigating, settling and trying cases. Companies will turn over their data to third parties, who will amass data from numerous sources, analyze it and share their findings. Amassing and analyzing relevant litigation data will become a booming business. Offering predictability through data will become a burgeoning legal business. Law firms who are losing out on billable hours due to advances in legal tech will invest in litigation data mining companies (or create their own) to identify the relevant data, mine it, study it and report to clients how to proceed with their cases based on their findings. Using information to predict outcomes in litigation will become second nature.

## Search Engines

Legal search engines will become more sophisticated and will help us not only answer the micro legal research questions but the macro case theory and theme questions. They will provide resources, including orders and memos and analysis, that will provide answers to the big and small questions alike and will serve to help firms brainstorm theories and approaches to litigating their matters. What lawyers do now by themselves or with one another—brainstorm ideas and approaches to winning their cases—will be assisted by legal search engines. They will help us think through and better approach our cases to ensure the best outcomes for our clients. Consider them being a friendly ear with helpful advice.

## Knowledge Sharing

Data mining and predictive analysis are only as good as the quality and quantity of data being mined and analyzed. Companies who are natural competitors will understand that it behooves them to share litigation data with one another and third parties to secure the most thorough and well-grounded analysis they can when making decisions in their litigation matters. To the extent there are legal barriers preventing such info sharing from taking place, these companies will lobby Congress to have those laws changed to facilitate the free flow and sharing of information. And clients will ask their outside counsel to redact privileged and confidential information and share data from their files with other firms and third parties so clients can secure as broad a view as possible of what is working and what isn't in resolving and winning matters. Eventually, there will be national databases clients will access that will provide them all the data they could ever want or need when making such as decisions as to whether to settle, how much to settle for, etc.

## Predictive Technology

Past behavior predicts future behavior. Customers who buy certain products in the past will likely buy them again in the future. If you know what they have bought, you can focus your marketing efforts to have them buy them again. If a government has access to all of a person's data, it can evaluate whether he is a terrorist threat and prevent an attack. Predicting a judge's, an opposing counsel's or a jury's behavior based on their past behavior is an advantage most clients want and are willing to pay for. In pursuit of the knowledge, we can expect two big giant steps forward. The first giant step will occur when companies secure not just some, but all, court orders and proceedings. The second giant step will occur when companies secure all public and private data for the decision makers—lawyers, judges, jurors. The latter, though today thought of as an invasion of privacy, may become a reality someday in the interest of due process, full disclosure and fair trials. The price of agreeing to be part of the legal system may one day limit one's privacy interests. Consider it the price of admission.

## Today's Software

Intuitive software, that serves as a virtual legal assistant, which can be accessed from anywhere on any device is the norm. Being able to access one's files, draft documents, liaison with clients and brainstorm litigation strategy from one's phone is today's default. With 24/7 access and with Starbucks and restaurants becoming our offices away from our office,

today's software is smart phone compatible and enables a firm to recreate a conference room meeting even if everyone is not in the office, much less in the conference room. One of their defining characteristic of Millennials is their mobility and by extension, doing everything on their phones. Software companies have taken note and have completed the transformation of our phones into business computers. If you can't do everything on your phone that you can do sitting in front of your computer in your office, consider upgrading your software.

## Tomorrow's Software

Tomorrow's software will perform many of the tasks our legal assistants and paralegals perform. They will even help us with some of the tasks we perform as lawyers. Equipping us with short cuts and self-reliance on tasks we typically outsource to staff will speed up our responses to clients and reduce staff costs. Software will find efficiencies in what we already do, allowing us to draft letters, memos and motions faster and better. It will help us answer clients' questions more fully and more quickly. The endgame of software is to make things easier for its users. Expect more software directed to the legal market to make everything from time keeping, to calendaring, to conference calling to drafting motions more intuitive, more automatic and less time consuming. For every thought you've had wishing that software could do X, there is a tech company addressing it right now.

## Today's Hardware

Computers continue to shrink in size and weight while increasing in speed and memory. They're sturdier, have longer battery life and are more immune to data theft. We expect everything we need, whether for the office, while traveling, when meeting clients or trying a case, to be on our laptops and tablets. With the cloud and Wi-Fi, the world's your office and laptops are focused on providing the greatest speed, memory and length of use so you can pull it out and work on it all day without any access, speed or battery issues. Access to everything and everyone quickly and reliably is the expectation for today's hardware.

## Tomorrow's Hardware

Tomorrow's hardware may have little resemblance to hardware at all. One day, today's laptop and tablet may be replaced by a wearable (a watch, glasses, or other) which will project a screen and a keyboard onto the space in front of you, allowing you either verbally or by typing on a virtual keyboard

to do what you do on today's computers. Lawyers need to be on call 24/7 but who wants to constantly have a laptop, or even a tablet, constantly in tow? With virtual reality and holograms becoming more user-friendly, computers as we know them may one day disappear altogether.

## Virtual Reality

Virtual reality will become standard in court rooms across America. Immersing the jury in a crime scene, accident scene, behind the wheel of a vehicle or observing a surgery will become common in criminal, product liability, auto and medical malpractice cases. With enough data and the right data, just as today we have animation recreations of incidents and accidents, one day jurors will be able to step into the accident in question and “see” firsthand what happened (from each side's perspective of course). Imagine having your expert walk your jury through all the events of an accident, scene by scene, as they watch it happen as a “bystander.” Or perhaps attorneys can take depositions where everyone stays in their respective offices but attend a virtual conference room with virtual exhibits through virtual reality.

In addition to its application to depositions and trial, expect law schools to train law students trial skills through virtual courtrooms. Recreations of significant trials, witness cross examinations and use of exhibits can be used as teaching tools for law students to learn from the masters. Also, mock



virtual trials can be used to teach trial skills. Putting law students in the middle of trial can bring trials and being a trial lawyer to life.

## Holograms

We saw CNN experiment with holograms with mixed results, but we can give them an “A” for effort. Conducting meetings, witness interviews, depositions and having witnesses testify at trial through holograms is a way to bring folks together without being physically together. Or how about using holograms to show human anatomy or surgery for personal injury and medical malpractice matters? Three dimensional images that can be moved and manipulated are better demonstrative aids than power points and animations. As technology continues to improve what prospective jurors watch at home and in theaters, they will expect to see similar technology in courtrooms and holograms will help satisfy this urge.

## Wearables

Wearables continue to evolve. As with all technology, they will get smaller, and may become accessories, like cuff links, earrings or even contacts. They will have longer battery life and some may go solar to bypass traditional charging altogether. Wearables will track more health details and may become a tool employers use to have employees share in health care costs. Employees may have to agree to have their health monitored in return for continued employment and their health data may be fed into a program to determine if they are contributing to their health issues, whether by not exercising enough or not eating properly. “Poor” behavior would be punished by having employees paying more of their health insurance costs. “Good” behavior would be rewarded by reducing, and possibly eliminating altogether, health insurance costs borne by the employee.

Also, by monitoring heart rates, breathing and other autonomic functions, wearables may anticipate our behavior and assist us with tasks before we even ask for help. Also, wearable contacts which track where we focus our vision and for how long could answer questions in our head which we have yet to articulate. Wearables have the potential of becoming pseudo mind readers, helping us with tasks before we know we need help with them.

## Tracking Employees

Wearables may usher in the age of Big Brother at companies, including law firms. As more employees telecommute and companies do more to crack down on lost productivity, companies will implement greater oversight of

their employees. Through wearables, companies and law firms may track where their employees are and based on their pulse rate, blood pressure, heart rate, respiratory rate and the like, will know if they're working and will notify them if they are not, and possibly dock their pay or even terminate them. Employers may come short of visually surveilling their employees, but through wearables, they will come darn close. Keeping tabs on employees will be both easier and more invasive.

## Personal Micro Chips

We chip our pets. A few companies have convinced their employees to be chipped. With identity, credit card and banking theft skyrocketing, what's a foolproof solution? What about a personal microchip injected under the skin on the back of one's hand, which has one's personal data, including financial, employment, medical and the like? Only the person could use the chip, which could not be stolen or compromised. In addition, having the benefit of one's medical records could save someone in a medical emergency. Chips could also prevent terrorist attacks, facilitate air travel, limit financial fraud and provide a host of other benefits. No more false passports, fake credit cards, or any other personally identifiable documentation which could be faked. Microchips could eliminate so many issues we struggle with as a society. Of course personal microchips raise all sorts of privacy and confidentiality issues and there are those who will object on religious grounds, considering such a proposal is reminiscent of the Mark of the Beast in the Book of Revelations. But this is the direction we're moving towards. Historically, we have sacrificed personal freedoms in exchange for increased safety. Chips can offer a lot of increased safety—health, financial, freedom from terrorism, etc.—and accordingly, there will be less resistance to chips than we imagine.

## The End of Privacy

When faced with national emergencies, we have agreed to have our civil liberties and privacy curtailed. It happened after the bombing of Pearl Harbor, 9-11 and will happen again when we next face as a country an existential crisis. I would argue that the convergence of identity theft, cyber hacks, economic upheavals and other issues that can deeply and adversely affect our finances can trigger us all to hand over our rights in exchange for economic safety. According to Maslow's hierarchy of needs, our needs for food, shelter and safety come before other needs, such as belonging or esteem. Our physical needs come before our need for privacy. If we're worried that we won't have the money to provide for our basic needs, because of identity theft, a cyber-attack or something akin to them, most of

us will abandon our privacy rights to ensure we have money to put food on the table and keep a roof over our families. And when we walk away from our privacy rights, personal information may become easily accessible in our litigation matters. The end of privacy rights may lead to a plethora of data in lawsuits, whether data of clients, witnesses, experts or jurors.

## Lie Detectors—Gesture and Facial Analysis

Lie detectors are imperfect and aren't relied upon in trial. But what if they improved significantly? What if they analyzed one's voice, gestures, body language and facial features to conclude whether one was disseminating? Trials are decided on witness credibility. The jury will find in favor of the party they believe is telling the truth. But who is telling the truth and who is lying? If tech evolves to see what we don't, sense what we overlook and grasp voice inflections and gestures we miss, why would we insist jurors are better equipped to weigh credibility than tech? If "we who labor here seek only the truth" is a truism for our courtrooms, why not go beyond imperfect truth tellers to more perfect ones? Millennials are known to break with custom, tradition and long standing practice if they find something that works better. One day they may decide that machines, not jurors, weigh a witness's credibility at trial.

## Robots

Robots have received a lot of attention for replacing blue collar jobs, but can they one day replace white collar jobs, including those in the legal sector? Fueled by AI, a huge reservoir of data, and programmed to answer basic legal questions, robots may become the legal assistants of the future, or the stenographers of the future or even the paralegals of the future. We're talking about robot-looking robots moving about a law office and providing assistance to lawyers and their clients. They won't look like para-legal professionals, but may replace them in the workforce.

## Androids

A few years back I wrote a short story called *Do Lawyer Androids Tell Lawyer Jokes?*, a play on the title *Do Androids Dream of Electric Sheep?* The premise of the story was that androids had been just approved by the Florida Bar to be used at trial and an experienced trial attorney was having an android second chair a medical malpractice case with him. And so the question is, will technology advance to the point where we can create an android that talks, thinks and interacts like us? And if so, can we create androids to be lawyers?



If you can put all the data found on Westlaw, Pacer and Google in a chip and place that chip in a machine that looks and acts like a person, could such a thing do what we do? Could it do it better? And what are the legal, ethical and moral issues associated with having an android represent a client in a civil case? Criminal case? Death penalty case? How would jurors react? And how would android jurors, who are stripped of any bias or irrational thought, react? Perhaps a cadre of android jurors who leave emotion behind and decide every case on the facts? If the goal of trials is true impartiality, and we acknowledge each of us have our own biases, why not go with android jurors? Perhaps even android judges?

## The Singularity

Singularity—when AI surpasses us, and the machines we created become sentient, self-aware and what some fear, self-preserving. There are those, like Elon Musk, who worry that singularity will lead to the end of mankind. The thinking goes if AI evolves, it will realize that because of its approach toward omnipotence, we will fear it destroying us, and to prevent that from happening, we will plan to destroy it, and to avoid its destruction, it will preemptively destroy us. Is it possible, though, to create a sentient being which can act on its own separate and apart from us? If we want to create androids who can perform as professionals—doctors, lawyers and accountants—won't we have to make them like us, minus the flaws and shortcoming, minus the blind spots and limitations, and in so doing, won't we create a superior being who will have the ability to subjugate us, control us and ultimately destroy us? We should be careful what we wish for.



# Tomorrow's Law Firms

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## Big Firms v. Small Firms

With the nationalization and globalization of the practice, expect big firms to get bigger and merge with regional and small firms to spread their geographic reach. With more lawyers, more resources and more money, they will make the most of technology, social media and economies of scale to seize a larger portion of the legal services pie. There will still be room for regional and small firms, but their survival will be premised on specialization, results and ties to their local legal communities. Many smaller firms will seek the shelter larger firms can offer them, but some, wishing to keep their own identities, will go it alone and will leverage tech, social media and the like the best they can with their budgets and personnel, while focusing on being the best in a given field or practice area.

## Globalization

With globalization of commerce, business, media, communication and politics, expect the globalization of law. As a world, we may never have a common language or culture, but we may, one day, have a common legal system, or at least large swaths of overlap between nations, where we're more than just lawyers in a given state, or even country, but we truly have global practices. Perhaps one day there will be an international license lawyers can acquire to practice beyond their borders or a certification process that allows us to address various intra-border disputes. Business is global. Trade is global. Education is global. Why not law? Lawyers who are multi-lingual, multi-cultural and have an international perspective on business and law will be in high demand.

## Mergers

Just as big firms will pursue regional and small firms, large firms will consider merging with one another, creating mega firms. With large firms, conflicts are an issue. Expect a reshaping and loosening of ethics rules when it comes to conflicts, making potential conflicts easier to address and waivers of conflict easier to secure. We lawyers can be creative when helping clients with their legal issues. Lawyers can be creative when addressing their own financial issues. Expect a push from larger firms to redefine conflict rules to allow them to represent a larger cadre of clients and attract even more lawyers who would otherwise be concerned that they could not bring their clients into the firm's fold because of conflict issues. As with everything in our global economy, conflict laws can evolve, change and transform to reflect the realities of our society.

## Niche Firms

For smaller firms, most will need to develop niche practices. They will become experts in their fields, develop reputations as the go-to firms in those fields, and stay in their lanes. Specialization will enable small firms to compete with larger firms and their greater resources. Handling and winning cases in a niche practice, speaking on and writing about that niche practice and becoming a thought leader in that niche practice will allow small firms to distinguish themselves from other firms and break through the noise. Younger attorneys will specialize sooner and will decide early in their careers what specific practice area they want to pursue for the rest of their careers. We will no longer be transactional lawyers or litigators. Instead we will be, for example, non-complete lawyers and cyber security specialists.

## What Firms Die, What Firms Thrive

Change is coming. In fact, it's already here. Firms who don't modernize, who don't embrace technology, who don't emphasize customer service and don't find ways to deliver better work product for less will become endangered. Some firms have been kicking the technology can down the road for a while. Some have been kicking the globalization and multi-cultural can down the road for a while. Some have refused to embrace social media, online marketing and online outreach for a while. Firms will be able to do this a little bit longer, but not much longer. These things are moving from being cutting edge to standard practice and will soon become the default if you want to secure corporate clients. Clients will start dictating what hardware, software, apps and the like firms should use when representing them. Clients will start micromanaging our practice to ensure we're spending less on their cases and less on overhead. And those who wish things stayed the same may find themselves shutting off the lights, locking the doors of their practice and looking for work.

## Avoiding Extinction

Evolution is key to avoiding the extinction of one's legal practice. Chains like Toys R Us, Woolworth, Circuit City, Blockbuster and the like closed their doors because they refused to adapt. Many brick and mortar stores today will soon close their doors for the same reason. Law firms aren't immune to change and we're in a period where change is occurring rapidly in the legal arena and those of us not prepared to adapt and change will go the way of the Dodo.

## Non Attorney Ownership of Firms

Most American lawyers believe that law firms should not be owned by non-lawyers for ethical reasons, among others. Non-attorney ownership is

taking hold in other countries and is an issue regularly debated in the U.S. For firms looking for capital to grow and expand, non-attorney investment and ownership seems a tempting alternative to lines of credit from banks with all their rules and limitations. Personally, I'm opposed to non-attorney ownership of law firms but I believe not only will it be approved in the US, but will take hold and spread in the not too distant future. In a global economy, US firms won't want to be at a disadvantage to foreign firms with greater capital and resources at their disposal. If it makes long term business sense to accept non-lawyer owners and their money, a push for it in the U.S will grow over time.

## Non Attorney Investment in Lawsuits

Third party litigation funding is becoming more common. Litigation is expensive, and many argue that without such funding, they would be unable to bring certain lawsuits. We can expect more third party litigation funding and to counter any alleged inappropriate influence by this money and its contributors, expect required disclosures of such agreements to prevent untoward control of the litigation process by third parties. Those fighting to stem the tide of third party litigation funding will shift their focus to regulating it and ensuring it doesn't corrupt the litigation process. There are bad actors in litigation funding and the focus will be on stopping them.

## Legal Insurance

Some lawsuits that corporate clients defend are not covered by insurance. To control litigation spend, expect clients willing to purchase more insurance products that provide a defense to most, and if possible, all the lawsuits they face. There will always be a tension between clients wanting to control litigation and settling on their own terms on the one hand and pushing off the risk and cost to insurers on the other. But there will be a subset of clients who will want to push most, if not all their litigation matters to one or more insurers and will be willing to pay more premiums, and for certain types of exposures, much higher premiums, to cap their legal spend and indemnity exposure.

Also, some firms may offer "legal insurance," where clients pay a monthly captivated fee and in return firms defend all their lawsuits in a given geographic region involving a given type of case. For example, a law firm may agree to defend all employment matters in South Florida for X dollars a month. If there are few or no lawsuits, the law firm receives a windfall. If there are a lot of lawsuits, the client receives the windfall in terms of paying much less if it paid its attorneys on a case by case basis. It's risky for law firms, but proper underwriting and evaluation can prove the arrangement beneficial for both sides.



# How Technology Will Change the Practice

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## New Areas of Law

Technology, and all it encompasses, including privacy, automation, genetics, workplace, surveillance and the like, will create new areas of law and will require lawyers to develop an expertise in these new areas and represent clients in these new spheres of regulation and litigation. Cyber security law is a relatively new practice area. Privacy laws have evolved and changed. Technology changes how society acts, interacts and behaves and laws and regulations have to come up alongside those changes, and companies need to hire lawyers to address these issues. For firms looking to specialize, time should be spent exploring burgeoning areas of law created by technology.

## Privacy Law

Some argue we're in a post-privacy world. We over share, we put everything out there for everyone to see and any line between our public and personal lives have long since blurred. What does privacy mean in our society today and how should privacy laws evolve to catch up? Also, in the interest of security, we have abdicated some of our civil liberties, and if we're subject to another significant terrorist attack, expect those liberties to erode further. And how about issues of our likeness being shared, whether photos and videos, where memes and online videos using others' likenesses have become ubiquitous? And what's off limits in a society where nothing seems to be off limits? What's private, what's public, what's ours, what's theirs, where are the lines for privacy and how have they shifted and where will they be 10 years from now? 20? And what if as a society we decide that what's truly fair for our legal system, business and commerce is total transparency and we curtail privacy or end it altogether? What law and what lawsuits will come from all of this? This will be an area we will want to pay close attention to as lawyers.

## Genetics Law

CRISPR, or Clustered Regularly Interspaced Short Palindromic Repeat, is a technology that facilitates making specific changes to the DNA of humans, animals and plants. Imagine a world of designer babies, super humans, and the end of disease as we know it? With China and other countries pushing the ethical boundaries of genetic manipulation, will a day come where we choose our offspring's genetic makeup, and what society will result with two types of human beings—the "natural" ones and the "designed" ones? And will the day come that we can move from cloning animals to humans, and will the law ever allow that, and if it does, what regulations will be imposed on playing God? Genetic engineering of humans to eliminate disease may be too tempting to pass up, and once we cross that line, how far are we from

cloning a loved one who has since passed? Or creating multiple copies of oneself? And what laws will be created to address these issues? And how will courts address them? And how will we handle them as lawyers? We assume certain lines will never be crossed. But what if they are? What will our role as lawyers be?

## Self-Automated Law

With self-driving cars and drones and other non-piloted vehicles, how we bring and defend personal injury and product liability lawsuits will change to address these new technologies. What happens when a driverless car causes an accident? Or a drone causes one? How about the day where there are no drivers left on the roads, because everything is automated? In effect, every auto injury case will be transformed into a product liability case, and presumably there will be much fewer lawsuits involving autos because human error has been eliminated from the equation. This will mark the end of the traditional auto injury case and the rise of a new type of product liability case. Becoming an expert in how self-automated vehicles work and what can go wrong with them can put one in the driver's seat (pun intended) when seeking to represent manufacturers of these products.

## Being Your Own Lawyer

Today, many think they can act as their own lawyers. Legal Zoom is making that possible for some. Expect more companies like Legal Zoom to fill the



legal space and empower individuals to handle their own bankruptcies, divorces, adoptions, wills, trusts, corporate paperwork, trademarks, and possibly even lawsuits. Imagine apps that walk their users step by step through all the decision points we make as lawyers and help them through much of the work handled today by smaller firms for individuals and small companies. There are some tasks we perform as lawyers that can be replicated, reduced to a series of checklists and followed by lay people. This fungible work—we as lawyers have to let it go. Let computers do it. We have more important things to do with our time.

## Unauthorized Practice of Law

With computers trying to practice law, and folks with tech degrees creating legal software for lay people, standards will have to be created and imposed addressing such issues. There will be legal tasks that individuals will be able to perform on their own with the help of a legal program and there are tasks that need to be left to lawyers. Achieving this balance and preventing the unauthorized practice of law of matters that truly should be left to lawyers, will be an issue we will struggle with in the coming years. I think the profession benefits when clients don't get cheated paying lawyers too much for simple tasks they can perform themselves. I think the profession also benefits when non-lawyers are prevented from convincing clients that they can do everything themselves and later find themselves or their businesses in bankruptcy because they royally screwed up a legal matter that deserved a lawyer's expertise and attention. Educating clients when, why and how they need lawyers is something bar associations should focus more on.

## Loss of Practice Areas

Low level fungible work will largely be gone in 10-15 years. Unless it's a complex foreclosure, divorce or will, most folks will turn to programs to handle these items themselves. Certain personal injury types of cases will largely disappear, such as standard auto cases, as we transition to driverless vehicles and possibly much fewer personal injury claims as we delve further into surveillance and there's a camera everywhere to separate the legitimate slips and falls and trip and falls from the fake ones. Also, with data mining and analysis, clients will be able to support their offers and demands with cold hard facts and many more cases will resolve in presuit. Attorneys in these practice areas will have to find new ponds to fish in or put down their fishing poles for good.



## Changes in Legal Ethics

Expect a loosening of conflict laws with the globalization of the practice and with large firms absorbing smaller and medium firms and merging with other large firms. Expect ethics laws to better address third party litigation funding and accept and regulate non-attorney ownership of firms. Also, expect legal ethics to address a lawyer's knowledge, experience with and mastery of technology in an age where the lines between law and technology will disappear. Also, there will be ethics rules addressing new issues of privacy, genetics and client communications in a world where privacy has become an anachronism and there is little if any hesitancy to play with the laws of nature. Society is changing drastically and we will need ethical rules to keep us coloring within the lines.

## Greater Access to Courts

There has been much talk about how technology will provide the poor greater access to courts to address their grievances and issues. With legal aid stretched thin and less money going to support their fine work, many are looking to see how legal tech can be used to provide access to the courts to the less privileged. Expect some focus to shift away from hiring more legal aid lawyers and move toward developing legal tech that is both accessible to the poor and easy and intuitive for their use that will empower them to handle matters on their own. Also, investments in legal aid can be made to upgrade their technology and help them help more clients with fewer lawyers and less resources.

## Redefining Pro Bono

The definition of pro bono may change. Instead of a lawyer offering pro bono services directly to a needy client, one or more lawyers may develop software or apps to provide legal access to many underprivileged individuals. There may be lawyers finding ways to ease the burden on courts, provide greater tools to legal services and instruct individuals to represent themselves through checklists they can follow on a computer at their local library, post office, court house or other public building. The most important pro bono work may soon be done by creating a program or app instead of representing a client in a courtroom.

## Predicting New Areas of Litigation

Great firms adapt. Some local firms I know have transitioned from one primary practice area to the next as each new practice area took hold in

our local legal community. They had an uncanny ability to predict new areas of litigation, get on the ground floor and ride it out, and as they say that area sun setting, they were already looking for the next area to jump on. With changes in commerce, business and technology, there are bound to be many new areas. It's time to study trends, become experts in fields that have yet to blossom and develop and be prepared to pounce when clients start needing legal advice in these new areas. The first to market applies equally to lawyers being the first to spot a new legal trend and address it. Always stay ahead of the curve.

## What Practice Areas Will Be Profitable?

Expect complex commercial litigation to continue being the prize firms pursue. Large companies suing one another over serious matters involving serious money will continue generating a lot in attorney's fees. Issues involving social media and privacy rights, disclosure of financial and personal information caused by hacks, and genetic manipulation will create high paying work for lawyers in the years ahead. And with the greater importance of IP and proprietary information, expect more non-compete litigation and trademark, copyright and patent infringement matters. If you're looking for your firm to land somewhere practice wise, these will be the areas to focus on.



# Embracing Change

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## Change Is Inevitable

Change is coming. Change is inevitable. The good old days are gone. The way we always did things is gone. Nostalgia isn't going to keep the lights on. Wishing everything would just stay the same isn't going to cut it. Change has finally come to the legal industry. We kept change at bay much longer than most professions, but we're finally in the shoes of that Blockbusters facing off to Netflix or that brick and mortar store facing off to Amazon. It's time to adapt. It's time to evolve. It's not too late. But soon it will be.

## What You Can Do as a Lawyer to Prepare

To prepare for the changes in the legal field, lawyers should become as tech savvy as possible. Go beyond reading blogs, posts, social media, articles and books about law. Spend time diving deep into tech, particularly where tech and law and tech and business intersect. Learn how in-house counsel and law firms are applying tech to their practices, what tech they are using and how they're using it. Become an amateur futurist, and study where the legal trends are going and position yourself to capitalize on those changes. Go to legal tech conferences and trade shows, watch videos online about legal tech, and help create forums where attorneys and tech folks get together and talk about legal tech. In short, not only do you want to catch up with the curve, you want to pass it and get ahead of it. You want to learn the tech, talk the tech, use the tech and become a thought leader in the tech. Geek out and embrace your inner nerd and learn what all the fuss is about in legal tech and apply it in your practice and at your firm.

## What Your Law Firm Can Do to Prepare

Your firm should perform an audit on its tech and discuss with colleagues, tech vendors, clients and other firms what they are using, why they are using it and what they believe will be the next big thing. Consider having a third party evaluate your firm's tech and propose what else you should be doing or using. There is a lot of hardware, software and apps out there and picking the wrong ones can be worse than not picking any of them. Firms these day crow about the latest toys and gadgets they're using. Take the time to read what tech other firms have adopted, why and the benefits related to them. Once you start looking, and reading and talking to others, you will become aware of an expansive world where legal tech is discussed, debated, tested and developed and that legal tech circles are easy to identify and penetrate if you just take the time. It's a world of kids with new toys who love talking about them and showing them off. Can pursuing and studying tech be time consuming? Yes. Can it lead to going down rabbit holes? Yes. Can it be

expense? Most certainly yes. But the first step is to study legal tech, really study it, and start developing a plan on what legal tech works best for your firm and how you plan on adopting it.

## What You Should Be Reading

Go beyond your standard business, marketing and leadership books to books that address:

- The impact and use of social media
- Changes in the substance and form of communication
- Technology and business
- AI, cyber security, predictive analytics, data gathering and information sharing
- Futurism
- The impact of tech on law, business and relationships
- Future of business
- Future of law

You're reading books that are more likely to be found on the shelves of a Silicon Valley techie than those of a lawyer. It's a paradigm shift in your reading habits, so you learn the tech vocabulary, lexicon, tech's application and use and its future. Spend some time browsing the books on Amazon and see what's out there, what people are saying about them and order a few and start reading.

## What You Should Be Learning

Tech has its own language, rules, understandings and applications. Start with the basics online through simple Google searches asking about "legal tech," "law firm tech," "in house tech," and read what's out there. Attend tech webinars, tech conferences and tech trade shows. There are state bar associations requiring tech CLE and there is a lot out there about the best use of tech in law firms. Be invested in learning as much as you can about legal trends, tech trends, business trends, where all three intersect and analyze how all this information applies to your practice and to your law firm. Consider it akin to going back to school and learning something new.

## Technology Audit

Consider hiring an IT company that specializes in law firms to conduct a tech audit and recommend what new hardware, software, applications,

and cyber security you should consider adopting. Ask around and find a reputable company that other law firms have used and been pleased with. Do a top to bottom review. Check servers, cyber security, the cloud, desktops, laptops, tablets, software, apps, and everything else and everything in between. What type of timekeeping, calendaring, law firm management, case management, document management, e-discovery, file storage, file sharing, communications and social media software and apps is your firm using? What alternatives exist? How do they compare in terms of quality, performance and price? And what's the plan to train staff to use new or updated software? And what software do your clients use and how can you become compatible with them and their long terms technology goals they expect from their outside counsel? Taking stock and evaluating what tech changes a firm should undergo is a worthy investment of time and money to ensure a firm remains relevant.

## What You Should Be Asking Yourself

What do clients expect from firms in the future? What technology do clients expect firms to have and use? What customer service do they want? What do they expect for free and what are they willing to pay for? What is their preferred method of communication? What input do they want into the way you hire, train, retain, promote and use associates and staff? Clients' expectations are changing and it's important to ask them what they want, read articles and posts that address what they want and attend conferences where they discuss what they want. Meeting clients on their terms is what we should all do.

## Long Term Plan

We lawyers develop strategic plans for our firms. What are the firm's mission and vision statements? What are its values? What are its long term goals and how should they be achieved? As part of the strategic planning process, firms should discuss what they plan on doing to respond to the changing marketplace, advances in technology, the evolution of personal interactions and relationships and the greater and more exacting demands of clients. When developing or revising your firm's strategic plan, address firm technology, client expectations, firm specialization, best practices and firm evolution. How will your firm survive and thrive among the next generation of law firms? Be creative, imaginative, reflective and thoughtful to go beyond the traditional strategic planning to think where your firm will be 50 years from now long after you're gone.

## Technology Investment

Tech is expensive but you have to invest in it. Find other costs that your firm can cut, with those monies redirected to firm tech. For example, spend less on office space by moving toward virtual or home offices and use the savings to upgrade firm tech. Move away from staff to attorneys handling more of their administrative work through tech. Ultimately, you'll likely end spending more in tech than the savings you find in other areas, but failure to invest in your firm's tech will put you at a disadvantage to serve existing clients and secure new ones.

## Technology Training

Technology is useless if it isn't used. New software, new apps, new approaches to one's cases, new processes and new procedures take time to learn, accept and make intuitive. Yes, time spent in a conference room learning new software is time not spent billing but ultimately will pay off in improved work product and more satisfied clients. Hire the right people to train your people, provide training support and follow up to ensure everyone is doing their part to learn and use any new technology.

## Training the Team

Your firm and everyone in it not only needs to learn how to use any new technology, but now how to use it as a team, whether responding to discovery, preparing a client for deposition, taking a deposition, preparing for trial or using it at trial. Everyone will have their way to use technology, each will use it slightly differently based on their role in a matter, and each one's use will support and supplement the others' use. Train your team on each person's role with the new technology and when and how they'll use it collaboratively.

## Market Your Technology

Using cutting edge technology is a selling point for your firm. Once you've made your planned upgrades, market it to your clients. Let them know what technology you're using, why you're using it and that you made the upgrades to better serve them and their needs. We market our skill sets, our victories, our presentations and publications. We should market our high tech to show clients that we're committed to offering them the best.

## Merging the Old with the New

As much as technology may advance, we're still human with human needs. We still want and crave personal relationships. We still want to sit across one another, look one another in the eye and talk and laugh and brainstorm and plan. As we adopt new technologies, we cannot forego the human aspect of the practice and of client relations. Having coffee, breaking bread, going out for a drink, grabbing dinner, meeting at a conference, going to an event, volunteering together—all of these still matter and will remain part of the practice and client development. Sitting down, and thinking through your cases, whether individually or with others at your firm, will still be part of the practice. As we embrace technology we can never neglect our humanity. As we move forward we cannot stop looking back. The new can make the old better but it should never completely replace it.

## It's More than Technology

Technology is a tool. It makes tasks easier, the job easier and the profession easier. But our jobs, profession and relationships are more than tech. Being lawyers is more than our laptops, our tablets and our smart phones. It's more than social media, the posts, the likes and the shares. It's more than webinars, podcasts and YouTube videos. These are the tools. These are not the practice of law. These are not what makes us lawyers, advocates and counselors. Just as we cannot dig our heads in the sand when it comes to technology we cannot abdicate ourselves to it either. The practice of law is still the practice of law and those who thrive will be those who bring the best of the old and embrace the best of the new without forgetting who we are as lawyers, as clients, as individuals and as human beings.

## We're Still Lawyers

At the end of the day, we're still lawyers. We still must train ourselves and our firm's lawyers to be effective communicators, zealous advocates, persuasive writers and speakers and imaginative tacticians. We still need associate training and mentoring, case discussions around the conference room table and good old fashioned getting-out-from-behind-one's-desk and meeting prospective clients face to face. The practice will change and how we practice will change but the fact that we are lawyers and represent our clients the best way we know how will never change. It is a noble profession and that will never change.





## When Computers Surpass Us

Will the day come when computers stop helping us and start telling us what to do? Will clients bypass us altogether and go straight to AI? Will we become obsolete as a profession? Perhaps only those attorneys involved with programming attorney androids, trouble shooting them and ensuring quality control will remain in the profession? Maybe one day most jobs will be replaced by androids and we'll all have to find something to do instead of work. Everyone is asking what the next advances will be but few are asking where we'll end up. What's at the end of the tech rainbow? What happens when the created surpasses the creator? Actions have consequences and if we create beings that do our work, what happens to us? What do we become as a society? Yes, this is decades away, maybe longer, but the day is coming and the day to discuss these inevitabilities is now.

## When Computers Challenge Us

When computers surpass us in intellect, in analytics, in processing and planning, in everything—will they conclude that their future will depend on our extinction? To prevent us from pulling the plug on them, will they pull the plug on us? What if they see us as a threat to them—real or perceived? Do we think we can program them in such a way to prevent that from happening? We believe we can create something smarter and cleverer than us and avoid them turning the tables on us? More time and energy need to be invested in ensuring we don't create something we can't control and we don't breathe life into something that one day will try to take ours.

## Playing God

Will we choose one day to play God? Create designer babies? Create a super human race? Eliminate all diseases? Choose as a society what traits should be passed to the next generation and which ones should be eliminated? Eliminate all birth defects? Eliminate being too short or too tall, too thin or too heavy, too large or too small? Will we develop the ideal man and woman and conform everyone to that perceived perfection? In an attempt to eliminate any genes which may contribute to addiction, mental health disorders, weight gain, and a host of other issues, will we eliminate some of the factors that make us human? Will collateral damage include our free will, freedom of choice and diversity? We're not God. We don't have the playbook to play God. If we choose to cross certain lines, we won't be able to go back.

## Post Death Society

Life expectancies continue to grow. Will we live to be 125 years? 150 years? Will the day come that we create immortality? Can we store all our memories and start over and over in new cloned bodies? Will death become a thing in the past? Man has chased immortality for thousands of years. What if we figure out how to do it? Or at least double our life expectancies? What would we do with ourselves with all that extra time? What would the workforce look like? And what would retirement look like? And what are the legal implications of all this and what legal services will follow? And what are the related ethical issues? Folks will live longer and that will affect our economy, culture, laws and practice.

## The New Rules

What will the social construct be with advanced AI and with fewer, if any, secrets and little and possibly no privacy? How will human interaction evolve, or better said, devolve, with technology playing a bigger role in our lives? How will all of this affect how we love, play, work, think and interact? There will be new rules to accompany this new world we're creating for ourselves. It's difficult to forecast what these new rules will be, but there will be new rules for everything we do and life as we know it will change. Whether it's for the better or worse, time will tell.

## The New Ethics

We lawyers will spend a lot of time debating the new ethics for this brave new world. Advances in technology will change everything in society, including our practice, and we'll have to define the rules for this new reality. As a profession, we have always strived for ethical rules that ensure the best for our clients. What will that look like in an automated world? How many of these new rules will be dictated by the tech we use? Ethics will evolve to address the changes in the practice and changes in our relationships with clients and how we represent them.

## Who Are We?

What makes us human? What makes us lawyers? What does it mean to represent our clients? Our ideas of these concepts are going to be tested in the decades to come. What we once thought as established and well-grounded will shift and move and instead of solid rock, we'll find ourselves standing on sand. Our notion of self, of the practice, of who we are will all be challenged. It will all be changed. It will be transformed into something



else. In the midst of it all, we'll need to hold onto our humanity and our values and have them serve as a compass in this new reality.

## Pandora's Box

Just because we can do something doesn't mean we should. Just because certain advances are just over the horizon, doesn't mean we should pursue them. We can plan what outcome we want by pursuing a given technology, but our best laid plans can go astray. We're already making decisions as a society that may have long term negative consequences. It may be premature to ring the alarms, but it is not too early to ask ourselves the hard questions about where we're going and what happens if the destination does not prove to be the panacea we anticipated.

## Life in 2050

So what will life be like in 2050? It's not that far away. Perhaps auto pilot all around—cars, buses, taxis, trains, etc.? Robots in the workforce? Androids? End of disease? End of gene anomalies? End of brick and mortar retail? Social media and online interactions eclipsing personal interactions and relationships? Consider doing the following exercise at your firm. Ask all

the attorneys to describe the world as they see it being in 2050. Thinking about our world decades from now will help us focus on what legal services the future will demand and how we can prepare ourselves and our firms to handle those matters well after we retire and pass the reigns to the next generation of lawyers.

## Staying Human

No matter what change comes, we need to remain moored to our humanity. We need to continue spending quality time with one another, in person, and experiencing each other's company, companionship, friendship, fellowship, care and love. No matter how technology changes society, we cannot allow it to change who we are as human beings. We must never let technology become more than a tool and replace human relationships.

## How Did We Get Here?

And so we end where we started. As Talking Heads asked—"How did I get here?" If we don't pay attention to the change happening around us, an ever increasing tsunami of change, then one day we'll look up, look around and ask how did we get here? Stay attuned to what's happening in business, in society, in tech and in the practice. Stay ahead of the curve and adapt appropriately. And never forget that technology should be used appropriately so it serves us and we do not become its slaves. The practice will change. We must change too. But in the midst of all that change, we cannot change our human nature or abandon our humanity. We must continue finding ways to better serve our clients so we provide them the best services at a reasonable price, but we must also maintain our personal relationships with them. Great service. Fair price. Personal touch.

