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BEING A LEADER IN THE LAW: REFLECTIONS ON MEETING THE RESPONSIBILITIES OF THE LEGAL PROFESSION

Curtis M Jensen* & Gregory H. Gunn**

Abstract

The practice of law has changed and, in the words of Yogi Berra, “[t]he future ain’t what it used to be.” Not too long ago, lawyers were the sole source from which nonlawyers could access legal information and services. With a strong economy and a demand for legal services, legal practices were growing. All indicators seemed to point to the continuation of a strong legal market.

However, the practice of law has evolved. The line between professions has blurred, the economy has changed, and technological advances have resulted in greater public access to legal information. Public perception of the legal profession has continued to decline with many (including small business owners and the middle class) who are now unable to afford the legal services lawyers provide. The story does not end there. There are also growing numbers of lawyers (mostly new graduates) that are either unemployed or underemployed. The combination of these changes has affected the current legal market, and there is disagreement on how to move through this transitional period. While there is a true challenge facing the profession, there seem to be many voices and many perspectives on how to respond. Law schools seem to think it is about changing law schools; bar associations think it is about creating new programs; and nonlawyers and perhaps even some lawmakers think that market forces will be the answer. Regardless of your voice and perspective, we remain firm that lawyers of the Utah State Bar can work together with others to provide a solution for the future of the practice of law within the state of Utah.

I. CHANGES IN THE PRACTICE OF LAW

The practice of law is changing, and we must change along with it, both as individuals and as a community. If we think like leaders, these changes need not be

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negative. Rather than remain passive, we, as lawyers, should be prepared to take steps to lead our legal communities forward. This Article summarizes the sources of change in the legal market, their potential effect on us as a legal community, and the steps we can take to move forward in a way that benefits us, as well as our clients. Part II discusses the role we can take as lawyers to be leaders in these efforts. Part III provides ideas for changes in practices and attitudes that we, as lawyers, can take to address these changes. Part IV concludes.

A. Sources of Change in the Legal Market

In today's legal market, lawyers no longer serve as the sole source of legal information. Both technology and globalization provide individuals with easy access to legal information—information that at one time was only available through a lawyer.¹ These two developments, along with a dramatic shift in the economy, have turned the legal market into a buyer's market.

Technology now allows individuals to complete legal documents on their own, to obtain answers to their legal questions, and to quickly decide where and how to get their legal advice. The presence of online legal service alternatives such as LegalZoom and DirectLaw may be a contributing factor of this change² along with a shift in legal consumers' expectations for online resources.³ This shift leaves "offline" lawyers out of the competition for new customers and expansion of their practice. What is clear is that individuals are going online for legal information—information that is abundantly available on almost any subject or issue—and accessing that information without any specialized legal skills.

The recession of 2008 left its stamp upon many aspects of the economy and the legal profession (like many others) is still feeling its effects.⁴ Now, lawyers

¹ See Mark Curriden, *Future of Law Panel: Change With the Times or Find Another Line of Business*, A.B.A. J. (Feb. 12, 2011, 7:30 PM), http://www.abajournal.com/mobile/article/future_of_law_panel_change_with_the_times_or_find_another_line_of_business/, archived at <http://perma.cc/3XFD-846S>.

² See Rachel M. Zahorsky, *The Future of Law: Old-Fashioned Client Relationships and Warnings for Solos*, A.B.A. J. (Mar. 29, 2012, 10:00 AM), http://www.abajournal.com/news/article/the_future_of_law_old-fashioned_client_relationships_and_warnings_for_solos/, archived at <http://perma.cc/8BNW-TS92>; see also Dan Pinnington, *The Future of Law: The Challenges and Opportunities of Practising Law in a Global Village*, 12 LAWPRO MAG., no. 2, Sept. 2013, at 27, available at <http://www.practicepro.ca/LAWPROMag/Pinnington-Future-of-Law.pdf>, archived at <http://perma.cc/G97B-ALDF> (describing LegalZoom and RocketLawyer as "major legal service players").

³ See Zahorsky, *supra* note 2 ("[Ninety-seven] percent of consumers expect companies to have a robust Web presence, and many look to videos posted on YouTube and Vimeo as ways to get to know lawyers and make hiring decisions . . .").

⁴ See GEORGETOWN UNIV. LAW CTR., 2013 REPORT ON THE STATE OF THE LEGAL MARKET 2–4 (James W. Jones et al. eds., 2013) [hereinafter GEORGETOWN], available at http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1003&context=cslp_pa

face competition for clients, not just among lawyers within the same geographic area, but also with online service providers and “do-it-yourself” software programs.⁵ Without leaving the comforts of home, consumers have access to legal information that is not only easily accessible and inexpensive, but also instantaneous, at any hour of the day or night. Online service providers not only compete against lawyers but amongst themselves to drive traffic (i.e. potential customers) to their legal websites by focusing upon immediate accessibility, amount of information provided, speed of delivery, and value received by the internet consumer.⁶

Meanwhile, law firms are learning they can no longer continue to do business as they did in the past and are attempting to make changes. Law firms choosing to take the “wait and see what will happen next” approach will most likely miss out because customers discovered during the 2008 recession that they could demand the same quality legal work with greater efficiency, quicker response, and at a cheaper cost.⁷ In order to remain competitive through the recession, lawyers had to be more efficient at providing the services clients requested while at the same time allowing clients to pay a predetermined rate or give them the opportunity to redline the billing statements. The postrecession consumer of legal services now imposes timeline and price expectations for the delivery of services. Clients now have the real alternative of simply taking their business to someone (online or in person) willing to perform the services at the client’s desired price and within the client’s desired timeframe. Corporate clients are more cognizant of legal costs and, as a result, are cautious before hiring outside work.⁸ The economic changes that began in 2008 have turned the legal market into a buyer’s market.⁹

Globalization has also played a critical role in reshaping the traditional model of providing legal services. New legal markets are being discovered overseas, such as in India, where quality legal work can now be completed at substantially

pers, *archived at* <http://perma.cc/7Y5X-9SDW> (discussing the “financial doldrums” in the legal markets around the world and lawyer productivity as being “essentially flat”).

⁵ Katy Murphy, *Law Schools at a Crossroads: Weak Job Prospects, High Tuition Causing Fewer to Apply*, SAN JOSE MERCURY NEWS (Sept. 27, 2013, 4:34 PM), http://www.mercurynews.com/ci_24192739/law-schools-at-crossroads-weak-job-prospects-high, *archived at* <http://perma.cc/Q3PL-DD42>.

⁶ See Jennifer Smith, *Rivalry Grows Among No-Frill Legal Services*, WALL ST. J. (Dec. 3, 2012, 10:37 AM), <http://online.wsj.com/news/articles/SB10001424127887323717004578155413493106962>, *archived at* <http://perma.cc/8U56-V6GY>.

⁷ See GEORGETOWN *supra* note 4, at 12 (“It would be tempting to think that all of the dramatic changes in the legal market [from 2008 to 2012] are attributable solely to the economic downturn . . . and that everything will go ‘back to normal’ once economic stability and growth return. [This line of thinking] oversimplifies both the causes and the . . . effects . . .”).

⁸ See Pinnington *supra* note 2, at 26.

⁹ Richard Susskind, *Richard Susskind: Disaster Ahead for Lawyers Unwilling to Change*, A.B.A. J. (Oct. 14, 2009, 9:00 AM), http://www.abajournal.com/legalrebels/article/richard_susskind/, *archived at* <http://perma.cc/5DFU-NXWE>.

cheaper rates.¹⁰ One can simply e-mail their legal request to an online legal service provider and receive back a final document that is ready for submission to a client or filing with the court.¹¹ Businesses and lawyers now realize they can tap into a whole new market of outsourced legal services provided at considerable cost savings.¹² In the end, clients who once freely paid top dollar now know the majority of their work can be accomplished not only more efficiently but also at a much lower cost.¹³

B. *The Effect of These Forces on the Legal Market*

Although technology, globalization, and a dramatic shift in the economy have affected how lawyers find and retain clients, these factors have not changed the public's perception of lawyers. A recent study asked participants to identify the contribution lawyers made to society.¹⁴ One-third of those surveyed said lawyers contributed "nothing" or "not very much" to society and placed lawyers at the bottom of the ten professions in the survey.¹⁵ These results are similar to the survey's 2009 results.¹⁶ Why the public holds such a low view of our profession is certainly a discussion for another day. But clearly such a negative perception can directly impact the demand for our services and drive consumers to other alternatives. The negative perception also influences the pool of qualified and gifted applicants who are evaluating the profession as a career choice.

The time when students went to law school, graduated, and found a job that provided a large income may be over. Many potential law school applicants are now choosing to not even apply.¹⁷ The current reality is that there are more

¹⁰ See Neenu Abraham, *Middle Class Americans Reach Out to Lawyers in India Via Internet for Legal Aid*, ECON. TIMES (Oct. 5, 2013, 1:00 AM), http://articles.economictimes.indiatimes.com/2013-10-05/news/42745257_1_legal-help-legal-petitions-indian-lawyers, archived at <http://perma.cc/ZA46-E6X3>.

¹¹ See *id.*

¹² See Rachel Zahorsky & William D. Henderson, *Who's Eating Law Firms' Lunch?*, A.B.A. J. (Oct. 1, 2013, 5:30 AM), http://www.abajournal.com/magazine/article/whos_eating_law_firms_lunch/, archived at <http://perma.cc/WZX9-HDD5>.

¹³ See Mike Ayotte, *Transparency is BigLaw's Kryptonite*, THE LAST HONEST LAWYER (Sept. 16, 2013), <http://lasthonestlawyer.org/2013/09/16/transparency-is-biglaws-kryptonite/>, archived at <http://perma.cc/8Y8N-KURW>.

¹⁴ Kevin O'Keefe, *Sad: Lawyers Contribute the Least to Society—Pew Survey*, REAL LAWYERS HAVE BLOGS (July 14, 2013), <http://kevin.lexblog.com/2013/07/14/sad-lawyers-contribute-the-least-to-society-pew-survey/>, archived at <http://perma.cc/V2M3-ZK3V>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Ryan Calo, *Why Now is a Good Time to Apply to Law School*, FORBES (Nov. 24, 2013, 1:43 AM), <http://www.forbes.com/sites/ryancalo/2013/11/24/why-now-is-a-good-time-to-apply-to-law-school/>, archived at <http://perma.cc/92SD-QT6K>.

students than there are available jobs,¹⁸ and students are finding they cannot secure a job through traditional methods.¹⁹ For example, 2011 law school graduates “had little better than a 50-50 shot of landing a job as a lawyer,”²⁰ and current numbers are not any better, with some projections that “six new lawyers . . . will be fighting it out for just one new job.”²¹

There is another side to the current legal market. The legal system is not functioning as intended, leaving a gap between those trained to provide legal services and those needing legal services.²² Simply put, there are many people in need of legal services who simply cannot afford them.²³ Many of these individuals have limited access to legal services because of demographics and time constraints. People just do not have the time or resources to expend on quality services, protracted litigation, or other constraints traditionally associated with the practice of law. This gap affects not only those individuals with no funds for legal services who would be served pro bono, but also the middle class who are unable to pay the going price for the services they need.²⁴ This causes many to make the choice to forego legal services altogether.²⁵ Because of the time and expense of going to court, there has been a reduction in the demand for legal services from lawyers, which results in individuals handling matters on their own,²⁶ choosing alternatives

¹⁸ GEORGETOWN, *supra* note 4, at 8–9 (citation omitted) (“[T]he National Association for Law Placement released the results of its annual survey, showing that just 49.5 percent of law school graduates in 2011 had obtained jobs in law firms—a figure that compared with 50.9 percent for the class of 2010 and 55.9 percent for the class of 2009.”).

¹⁹ See Wendy L. Werner, *Career Advice for Law Students and New Lawyers: A Roundtable Discussion*, LAW PRACTICE TODAY (Mar. 2011), http://www.americanbar.org/publications/law_practice_today_home/law_practice_today_archive/march11/career_advice_for_law_students_and_new_lawyers.html, archived at <http://perma.cc/H4EX-S8ZP>.

²⁰ Joe Palazzolo, *Law Grads Face Brutal Job Market*, WALL ST. J. (June 25, 2012, 10:18 AM), <http://online.wsj.com/news/articles/SB10001424052702304458604577486623469958142>, archived at <http://perma.cc/H7HD-B2W5>.

²¹ Mark Koba, *Courtroom Drama: Too Many Lawyers, Too Few Jobs*, CNBC (Mar. 21, 2013, 12:01 PM), <http://www.cnbc.com/id/100569350>, archived at <http://perma.cc/6BYB-MQ5S>.

²² See Pinnington, *supra* note 2, at 26–27.

²³ *Id.*

²⁴ *Id.* at 26; see also Debra Cassens Weiss, *Middle-Class Dilemma: Can’t Afford Lawyers, Can’t Qualify for Legal Aid*, A.B.A. J. (July 22, 2010, 8:36 AM), http://www.abajournal.com/news/article/middle-class_dilemma_cant_afford_lawyers_cant_qualify_for_legal_aid, available at <http://perma.cc/W266-DK3K> (stating the expense of legal services is “out of reach for most people” because their income precludes them from legal aid but still does not allow them to afford legal services).

²⁵ See Pinnington, *supra* note 2, at 26.

²⁶ See *id.* at 26–27.

to traditional methods of legal services,²⁷ or making the election to not involve the legal system and deal with the consequences.²⁸

This “access to justice paradox”²⁹ asks “[h]ow is it that we have people badly in need of a lawyer with no one to turn to and, at the same time, find that thousands of young lawyers are unemployed and underemployed?”³⁰ The key to solving this paradox is consuming the academic world and national, state, and local bar associations. Creative minds and alternative providers of legal services are convinced they will be the key to solving this paradox.³¹ These competitive forces are highly motivated, active, and vigilant.³²

The problem is much more than just mere economics or supply and demand because “[t]he access to justice paradox seems to defy the most basic principles of supply and demand.”³³ Maybe it can even be said the legal profession has broken the law of supply and demand. “[P]oor and lower income populations remain underserved because lawyers can be made available to these clients only if the lawyers are paid or subsidized by a government or private benefactor.”³⁴ This “[r]educed demand for traditional legal services . . . also means there is less demand for [graduating] students and a tendency towards over-supply of lawyers”³⁵ Robert Clark, former Harvard Law School Dean, once joked, “If the current trend continues, there will soon be more lawyers than people!”³⁶

²⁷ See *id.*

²⁸ See Terry Carter, *Judges Say Litigants Are Increasingly Going Pro Se—At Their Own Peril*, A.B.A. J. (July 12, 2010, 11:39 AM), http://www.abajournal.com/news/article/judges_say_litigants_increasingly_going_pro_se--at_their_own_, archived at <http://perma.cc/CJ4D-KHK8>.

²⁹ James R. Silkenat, *Trouble in Paradox: Our Nation's Unmet Legal Needs and Unemployed Young Lawyers*, N.Y. ST. B.A. J., Sept. 2013, at 55, available at <http://www.nysba.org/workarea/DownloadAsset.aspx?id=43479>, archived at <http://perma.cc/MWH5-KSAM>.

³⁰ *Id.* at 55–56.

³¹ See, e.g., AM. BAR ASS'N, A BLUEPRINT TO ENHANCE ACCESS TO LEGAL SERVICES AND ALLEVIATE UNDER-EMPLOYMENT OF LAWYERS (2013), available at http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_enterprisefund.athcheckdam.pdf, archived at <http://perma.cc/9C5C-M5FH> (discussing an ABA project where economists, design engineers, social scientists, business managers, demographers, and lawyers all collaborate to identify solutions that will both increase access to legal services and alleviate underemployment of practitioners).

³² *Id.*

³³ Silkenat, *supra* note 29, at 55–56.

³⁴ AM. BAR ASS'N, TASK FORCE ON THE FUTURE OF LEGAL EDUC., REPORT AND RECOMMENDATIONS (2014), available at http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.athcheckdam.pdf, archived at <http://perma.cc/RS27-M3KR>.

³⁵ Pinnington, *supra* note 2, at 26.

³⁶ Harry T. Edwards, Chief Judge, United States Court of Appeals for the District of Columbia, A New Vision for the Legal Profession, Address at the Seventy-Fourth Annual

Currently, there is disagreement about the factors that have caused these changes in the legal market. There is also disagreement about how rapid they will take effect over time and whether the current conditions will continue to evolve only into the near future or whether they will continue at an even more accelerated rate and become a constant. In spite of these disagreements, “[w]hat we cannot do . . . is stand on the sidelines and do nothing.”³⁷

II. RADICAL CHANGES MAY NOT BE NEGATIVE IF WE THINK LIKE LEADERS IN THE LAW

With “[t]he *status quo* . . . coming unstuck”³⁸ and a realization that the past is just that—the past, the legal profession will have to face changes, but such changes do not have to negatively impact our practice of law. As a profession, we can face the task of recognizing changes in the legal market and making adjustments in our practices that will allow us to provide necessary legal services to our communities.³⁹ As law students, when we entered law school, many of our professors told us that law school would “teach us to think like a lawyer.” Expanding on this common phrase, the purpose of law school is not just to think like a lawyer but also to think like a leader in the law. As lawyers, we have received three years of formal training and possess a unique skill set. Law school taught us to see, think, and read critically. It also trained us to keep an eye toward identifying potential problems, exploring options, developing and analyzing thoughtful solutions, and advocating for the implementation of those solutions. With this refined skill set and training, we often find ourselves as being the key decision maker, the counselor and advisor, and the advocator of change, that is, the one that everyone in the room is looking to for the answer.

There are times to be bold and times to be understanding and compassionate. We have learned to be articulate and skillful with our communication and to be good listeners. We have also learned to identify things others may miss. Therefore, we must have courage to lead out and speak where voices are not heard, where rights need to be defended, and where remedies and protections need to be asserted. The law is an important social institution that not only affects what happens within the walls of the courthouse and law office, but also—and more importantly—outside those walls. We become leaders in our communities, leaders in the boardroom, and advocates for those who have no voice—regardless of their economics, demographics, and physical limitations or circumstances. We need to think and act as leaders in the law, which will allow our profession to meet the challenges it now faces.

Meeting of the American Law Institute (May 19, 1997), in 72 N.Y.U. L. REV. 567, 569 (1997) (citation omitted).

³⁷ Silkenat, *supra* note 29, at 57.

³⁸ Pinnington, *supra* note 2, at 31.

³⁹ See GEORGETOWN, *supra* note 4, at 1.

The preamble to the Utah Rules of Professional Conduct discusses this concept of being a leader in the law:

As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. . . . A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance and therefore, all lawyers should devote professional time and resources and use civic influence in their behalf to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.⁴⁰

The responsibility of being a lawyer has not changed because of changes in the economy or the level of online access individuals have to legal information. Although there is some unrest concerning the current state of the legal profession, if we in the legal profession would reflect upon the essential values contained in the preamble and live up the aspirations of our profession, the answer becomes much more clear—lawyers can be the solution.

III. MOVING FORWARD

This is a complex problem. There are no easy solutions. Solving this problem will take changes in practices and attitudes among many different people and groups. But, as members of the Utah Bar, there are things we can all do now to address it. First, supporting the existing Pro Bono and Modest Means programs. Second, using technology to effectively develop relationships with clients and colleagues. Third, exploring ways to add value to a client's business. Fourth, building your professional reputation. And fifth, rethinking the possible solutions offered.

A. Support the Current Existing Programs

Over the past several years, the Utah State Bar in association with the Utah Courts has implemented two programs in hopes of addressing, in part, this access to justice paradox. Chief Justice Matthew B. Durrant's recognition of the Bar's Access to Justice Programs in his State of the Judiciary Address to the legislature acknowledges the progress of these programs:

⁴⁰ UTAH RULES OF PROF'L CONDUCT pmb1.

There are, of course, situations when self-help resources aren't enough, when only a lawyer will do, and the State Bar has stepped up with two important programs. The first is the Pro Bono program, in which lawyers accept cases without any compensation, and the second is the recently developed Modest Means program, in which litigants pay on a sliding fee schedule, based on their ability to pay. Both of these efforts require willing lawyers, as well as coordination to get the willing lawyers together with clients in need. The Bar is providing both, and they deserve our thanks for making legal representation more accessible.⁴¹

In addition to these two programs, we have several local bar associations and sections that continuously volunteer their time in meeting and providing legal services to the underserved members of our public. These programs are constantly being reviewed and refined by bar leadership in hopes of becoming more encompassing with these services, as well as looking for new and inventive ways to launch working opportunities and client development for the unemployed and underemployed. There are other ways in which the Bar has tried to assist the legal market with additional opportunities to serve the community and allow lawyers to develop practical skills, such as the Mentoring program and Lawyer Referral program. In addition, many sections and committee organizations are available within the bar and noted on the Bar's website.⁴²

Support of pro bono or low bono programs does not need to come exclusively out of purely noble instincts. Although many consider pro bono work to be a "selfless act" and "the right thing to do," it can also provide practical and economic benefits.⁴³ Lawyers who do pro bono work can accumulate valuable, and sometime lucrative, contacts. Simply said, it pays to be good.

Some may say it sounds uncaring to advocate pro bono work in order to generate business contacts and, hopefully, potential clients. But there does not have to be just one motive for doing an action. For example, a client hires a lawyer to research a complex business issue the client is facing. The lawyer has not faced this type of question before and invests time and effort into providing a thorough answer for the client. This does not mean that in the future the lawyer is barred from using this knowledge in another matter. In essence, the lawyer was motivated to meet the client's immediate needs and also motivated to build and strengthen their skills. Similarly, a lawyer can have multiple motives for doing pro bono work:

⁴¹ Matthew B. Durrant, Chief Justice, Utah Supreme Court, 2014 State of the Judiciary Address 5 (Jan. 27, 2014), available at <http://www.utcourts.gov/resources/reports/statejudiciary/2014-StateOfTheJudiciary.pdf>, archived at <http://perma.cc/6J6Z-7URU>.

⁴² See UTAH STATE BAR, <http://www.utahbar.org>, archived at <http://perma.cc/WSE8-ASYK> (last visited Sept. 20, 2014).

⁴³ See Roy S. Ginsburg, *Pro Bono Makes Cents: The Business Case for Pro Bono*, ROY S. GINSBURG, J.D., <http://www.royginsburg.com/pro-bono-makes-cents-the-business-case-for-pro-bono>, archived at <http://perma.cc/9ERM-4FPB> (last visited Sept. 20, 2014).

Doing pro bono gets you out there into the community in a meaningful way. Through this kind of work you will likely get to know a good number of people in the non-profit world, a world you might not get exposed to in other ways. While future clients might not come to you from the work or agency directly (though they could), you never know who you might meet that could later become a client or referral source for you. Imagine: you could connect with another attorney who is also doing pro bono work for the same agency and you become referral sources for each other. Or maybe your outstanding commitment and work catch the eye of a key board member or stakeholder in the agency who then refers you or your firm to their organization. Pro bono work is a terrific way to develop your client base and book of business.⁴⁴

The Pro Bono and Modest Means programs afford many tangible benefits to the lawyers providing these services, such as allowing a lawyer to learn a new practice area; refine their skills in a current practice area; strengthen client relationship skills by serving a greater number of clients; raise their reputation through increased standing among judges and peers; and connect with various service providers that may be able to serve a paying client's needs.⁴⁵ The Modest Means program will help a lawyer build a book of business and develop a positive reputation within the legal community.

Both of these programs allow lawyers to build their practice. But which clients should a lawyer take on if they desire to build their practice? The answer is, it depends. Doing pro bono work influences you. Pro bono and modest means work can reignite your passion to practice law and positively shape your reputation.⁴⁶ In this situation, it is important to find an area of the law that you are passionate about or have a desire to learn more about. You may desire to increase a specific area of your practice. For example, if you want to develop your transactional practice, then finding opportunities to work with nonprofit startups would make sense because “[e]very community . . . has many individuals without [legal] resources but with substantial ambition to create something of value, be it a charitable organization or business.”⁴⁷ Finding and serving these individuals can bring future benefits in the form of increased paying work.

⁴⁴ Kendra Brodin, *The Case for Pro Bono Work*, LAWYERIST (Sept. 28, 2011), <http://lawyerist.com/the-case-for-pro-bono-work/>, archived at <http://perma.cc/3XZS-KBD3>.

⁴⁵ See Nelson Miller, *Build Your Business With Pro Bono*, A.B.A., <http://www.americanbar.org/newsletter/publications/youraba/201303article01.html>, archived at <http://perma.cc/43AK-AQU7> (last visited Sept. 20, 2014).

⁴⁶ *Id.*

⁴⁷ *Id.*

B. Using Technology to Build and Develop Relationships

Today's legal market is an "increasingly difficult and challenging environment . . . that calls for clear thinking, strategic focus, and flexibility in addressing rapidly changing realities."⁴⁸ Technology should not be viewed as a hindrance to our ability to practice law; it should be viewed as a new opportunity. Technological advancements within our profession have enabled us to make substantial cost savings in law office operations and delivery of legal services. As an example, as much as I enjoy listening to the bands of the 1970s on an 8-track tape, I must admit it is so much more enjoyable to hear the rich harmonics, base beats, organ runs, and sound quality with today's technology. Today we do not need to have access to shelves of books in order to do research on a client's legal issues. Instead, we simply press a button to turn on a computer and begin typing the issue we need to research. We no longer need to assemble and bind documents and pack boxes for mailing and delivery; we simply drop those documents into a folder on a computer and press "send" and they are delivered and accessible instantaneously. The delivery, pace, and cost of legal services have been drastically changed by technology. Accordingly, technology should be viewed positively because it results in greater efficiency and lower costs in the delivery of legal services.

Even with the influx of technology into the legal profession, lawyers need to remember that they provide services that web-based legal services cannot—that is, lawyers are incarnate, compassionate, industrious individuals with a highly evolved consciousness that allows them to render personal service that is unmatched by any other alternative. At the 2012 American Bar Association's tech show, speakers urged the implementation of technology to establish personal relationships and increase communication with customers.⁴⁹ There simply is no replacement for the face-to-face meeting to solve problems and provide solutions. This interaction is a constant in providing high-quality, effective legal service and advice because it brings that human touch and allows clients to be personally invested with their lawyer and the legal services being provided. Alternative web based services will not accompany a distraught client to court to determine the outcome of a criminal proceeding or the fate of the family in a domestic setting. Nor will they provide instantaneous answers to questions and issues that arise during the course of a complex commercial case or transaction. Even if we continue to advance down the road and if alternative legal services find some way of incorporating the artificial intelligence quotient in their web based services, it will never approach the personal and emotional empathy that we can provide to our clients.

We should take advantage and use technology to build and develop relationships. This requires a constant self-assessment in finding and knowing

⁴⁸ GEORGETOWN, *supra* note 4, at 1.

⁴⁹ *See* Zahorsky, *supra* note 2.

what you like and what you do well, being genuine, targeting those that can benefit from your services, and developing simple ideas and then acting on them. For example, we can use technology to enhance our relationship with our clients by providing them with quick solutions to their problems, or we can create a forum where clients could discuss ideas and exchange dialogue instantaneously with their lawyer without interrupting their daily routine or requiring them to leave the comforts of their surroundings. Just think how refreshing it would be for a client to get an unsolicited call from you as their lawyer informing them that you had been thinking about them or their company and came across a new idea or method you would like to share with them to benefit them and their company. Then shock them even further by not billing them for that friendly and unsolicited call.

We should remain ever vigilant in assisting and helping our clients avoid problems before they arise. We should be sure to let them know and realize that we have a genuine concern for the well-being of them and their company. In today's world we do not have to wait for our clients to call or run into us in order to show them our concern or to provide our assistance—we simply need to send them an e-mail, forward them an online article or document, or pick up the phone and demonstrate such concern. In his book, *The Future of Law: Facing the Challenges of Information Technology*, Richard Susskind suggests lawyers need to move from being reactive legal problem solvers (i.e., waiting for the ambulance at the bottom of the cliff) to proactive legal risk management advisors (i.e., building the fence at the top of the cliff).⁵⁰

Using Susskind's imagery, we may know how to build the fence. But if we don't, we may know someone that does. This would be a great opportunity to refer the individual to one of your contemporaries or even a newer lawyer with whom you have developed a relationship. Younger lawyers and those looking to build their book of business can utilize such resources to further network and build relationships. Take advantage of the Bar's unbundling of legal services to work closely with a seasoned or experienced lawyer in one of your desired areas of practice, or call for support and advice. In return, share your technological skills and talents by showing how such representation can be aided by technology and the new age of access to information. Use your social media in a proper and professional manner. Sometimes turning someone away from you is good for business because it builds trust. Finally, be yourself when using technology to build and develop relationships. Take time to figure out the best way to present yourself and be sure that your "online" presence matches your "offline" reality.

C. Adding Value to a Client's Business

“[L]awyers must provide services that are a value-add to their clients. The value-add . . . is knowing your client's business better and helping them solve

⁵⁰ RICHARD SUSSKIND, *THE FUTURE OF LAW: FACING THE CHALLENGES OF INFORMATION TECHNOLOGY* 24–27 (1996).

problems that they couldn't figure out."⁵¹ In the past, a majority of legal work was charged at higher rates, but with changes in the economy, clients have become more sensitive to their bottom-line and often ask for more work at a lower rate, which requires lawyers to respond creatively.⁵² Let your client know that you are aware of such concerns and that you will do your best to address those concerns in your representation. Let your client know that you value the opportunity to provide them with legal services and that you value the business relationship you have formed with them over time. As a client comes to value your services, he will pay for those services. As an example, no client resents the fees that Ted Olson or David Boies charges for arguing before the Supreme Court, but no client would pay those same fees to complete process work.⁵³ Not only should we provide zealous representation for our client, but we should also be mindful of our client's bottom-line.

For many years, a lawyer's ability to know where to find the answer to a client's legal question was a feature that made lawyers indispensable. Now, a Google search can find the same answer to that client's legal question in less time and for less money. Although a client may not fully understand how to search the Internet for the correct legal answer or properly use nontraditional legal services, it is still a resource they are willing to seek out and try as an alternative. But just knowing where to find the answer does not develop trust. We can develop a "trusting relationship . . . [by] investing . . . time to understand [the] client's businesses and doing a better job seeing the world through their eyes."⁵⁴ We need to put ourselves in the client's shoes and ask, if we were this client, is the type of legal service we would be expecting to receive. "This gives us the best opportunity to use our legal expertise to solve their problems in a way that makes [lawyers] indispensable. Thus, as our client grows, we have the opportunity to grow with them."⁵⁵ This growth enriches both lawyer and client economically, as well as personally, over time.

D. Build Your Professional Reputation by Getting Involved in the Bar Association and Your Community

Lawyers typically only receive referrals from individuals that know and respect them. Reputation is most likely the best tool to develop business. It may take many years to build a positive reputation and just one negative incident can

⁵¹ Curriden, *supra* note 1.

⁵² Debra Cassens Weiss, *Legal Futurist: 'The Party is Now Over'*, A.B.A. J. (Nov. 11, 2008, 10:20 AM), http://www.abajournal.com/news/article/legal_futurist_the_party_is_no_w_over/, archived at <http://perma.cc/4LSD-2WPU>.

⁵³ See Ayotte, *supra* note 13.

⁵⁴ William Henderson, *Why Are We Afraid of the Future of Law?*, NAT'L JURIST, Sept. 2012, at 8, available at <http://www.jdsupra.com/legalnews/why-are-we-afraid-of-the-future-of-law-31162/>, archived at <http://perma.cc/YFN5-PTAL>.

⁵⁵ *Id.*

destroy it. All lawyers—especially those new to the bar—can build a positive professional reputation by volunteering with various legal and community groups, attending bar association events, and assisting with pro bono legal clinics. These experiences will not only provide lawyers with a greater network and the opportunity to build a positive professional reputation, but they will also allow for opportunities to provide more legal services to the community through a pro bono or modest means program.

At all times, we must remember to make it a priority to be civil and ethical in our practice and in the way we conduct our daily lives. We become professional by acting professional. We have a great opportunity—because of who and what we are—to provide services within the communities we live in. We can serve our communities, neighbors, and friends by volunteering and serving on local boards and councils. As we simply get involved, we will have the good fortune to meet new people in our community and forge new relationships and associations with them and they, in return, get to know us as individuals who—when needed—can provide them with the legal services they require.

E. Radical Changes vs. Rethinking the Paradigm

It could be argued that the simple thoughts and solutions outlined above are grossly insufficient to cope with the ever-evolving changes facing our profession and resulting from the advancements in technology and globalization. Perhaps more significant changes do need to take place among several sectors of our society.

First, it is now time for law schools to review and revise their model for legal education. Greater emphasis needs to be placed on providing law students with better technical, managerial, and interpersonal skills so that they are equipped to meet the rigors of the legal environment. They should be taught general business concepts and basic business operations models. They should also be taught how to set up and operate a simple business by finding the ideal location, hiring employees, managing a payroll and taxes, and keeping the business profitable. Analytical training and critical thinking may not be enough to help close the gap in employment opportunities and unmet legal services.

Others may argue that we, as lawyers, need to be more open as a legal profession to innovations and new ideas. For example, we should be open to alternatives to the current traditional model of law practice and to the protections granted to our profession that safeguard and protect our monopoly. They advance ideas such as finding ways to let in the alternative legal service providers and opening up limited practices to technicians, paralegals, and others who do not necessarily want to engage in the traditional practice of law. The legal profession should allow some of these unmet legal services to be serviced by outsiders and we, as lawyers, should assist in developing and refining those outside providers with the proper skills and settings to provide such services. Bar associations should be more forward thinking and should look for ways of complementing the technology and globalization that is confronting the profession today and opening

up new areas and markets for multidiscipline practices. The legal profession should also adopt a “one-stop” shopping model where individuals can access the expertise and assistance of several professionals under one roof. Perhaps other professions are just as suited to providing such traditional services—we see it happening more each day with title companies, accountants, insurance agencies, engineers, business executives, and entrepreneurs. Should we be so resistant in limiting such outside professionals, or should we be more conscientiously and constructively coordinating our services with these professions to improve the final services being offer to the legal consumer?

Finally, we should be more proactive in improving our traditional model and breaking down outdated barriers that limit our efficiency and effectiveness, such as looking to expertise in better management of operations, capital infusion of law practices and newer models, and utilization of bridge programs such as incubators for new lawyers. We can also service clinics for underemployed lawyers to further train and refine their professional skills while providing service at reduced costs or by outside sponsorship. Has the time come for serious consideration of such changes, or will such changes be considered extreme and radical? It is now time we climb aboard, step out of the box, and rethink our traditional model—after all, we are the ones who possess the unique skills and critical thinking to be problem solvers and to bring solutions.

IV. CONCLUSION

It is clear the legal profession is going through a change, but the nobility and honor of our profession remains a constant. As leaders in the law, we have the opportunity before us to create a market that still requires our unique skills, ethics, diligence, and commitment to solving problems in a very real and personal manner for our clients. We should not fear the changes coming to our profession, but should seek out and look for ways to take advantage of such changes to provide services more efficiently and economically. We should continuously look for those opportunities to serve; to improve our skills and talents through taking advantage of the bar programs; to create better access to ourselves and our colleagues through such engagement and associations; and to always approach our profession honorably by acting at all times within our practice with civility, diligence, and integrity. As leaders, we should become more engaged with bar services and programs to assist the public with access to justice and the needs of the unmet legal services that continue to increase in our community. In return we will find that doing so will directly benefit us as a legal community. As we refocus our efforts and embrace the changes before us, we can uphold the principles of our profession and provide greater access to legal services. But are lawyers, law firms, and bar associations prepared to confront and meet these ever-evolving changes brought on by technology, globalization, and consumers demands? This is the real question, and, after all, we are the problem solvers.