

Let's Seize the Moment

There is no question our profession is changing. Indeed, it is changing faster on a daily basis than we can probably appreciate at any given moment. With this tidal wave of change coming, it seems to me we have two choices: we can either paddle out and ride the wave of change, or we can wait for it to crash down over us and we'll be left picking up the debris that surrounds us after it lands.

With the advent of our new look for the Bar magazine this month, it seemed an opportune time to highlight some of the changes we are seeing. Outlined below briefly are five of the major influences impacting how we do our work and how we deliver legal services in this changing global context. These five trends are: a changing lawyer demographic, the changing nature of the world, the changing nature of law firms and attorneys, the changing nature of clients, and the delivery of legal education.

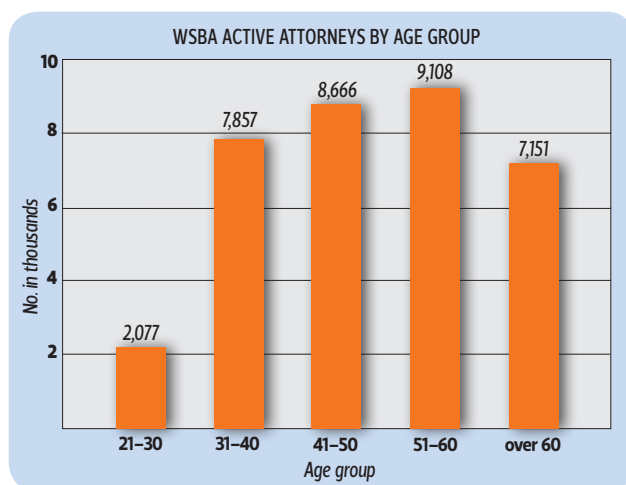
As I have outlined in previous columns and as our recent membership study confirmed, our lawyer population is aging and significant numbers of lawyers will be transitioning out of the profession in the next 10 to 15 years. The graph is a snapshot of the WSBA membership by age. You will quickly notice that the bars on the right side of the graph are much higher than the bar to the left: while many contend there are too many lawyers in the United States, I'm concerned that if this trend continues we may be looking at a shortage of lawyers in the future. This concern is compounded by the fact that there has been a significant drop-off in law school applications the last two years nationwide (a 14 percent drop in law school applications last year and a 16 percent drop in the number of people taking the Law School Admissions Test (LSAT)).

The world in which we must deliver legal services is also changing drastically. The gulf between the haves and the have-nots continues to widen (the 2010 census showed that the richest one percent of Americans account for 24 percent of all income) and this gap has only been exacerbated by the recent recession. The overall population is aging as well, and Washington's elderly population is predicted to double in size between 2005 and 2030. Finally, among other changes, technology has led to increasing global ties such

a solo or in a small firm, but these numbers are increasing as new attorneys emerge into the market to find not as many opportunities in the large firms and public sector. We have also seen a trend toward large firms sometimes imploding or merging together to make even larger firms.

In addition, new lawyers are demanding a work-life balance and they are using technology to make this balance more of a reality. When I served as Assistant Dean at the University of Washington School of Law, I had many older alumni comment to me that they wished they had spent more time with their kids while they were growing up. With remote technology and other options to do our work at locations other than a physical desk, I think newer lawyers offer much hope for our profession in showing us that one can attend their son's or daughter's — or even their own — soccer game and still get the work done.

And, yes, after decades of hearing that the billable hour is coming to an end, we are actually seeing a major shift toward alternative fee arrangements, that is, value-based billing that provides predictable expenses for the client and a more effective delivery model for lawyers. As one major law firm partner in Chicago commented, "In an [alternative fee arrangement], you are able to do whatever you need to do to win the case. It's exciting to think about. And



that, for example, an economic meltdown in Greece recently was of serious concern to the United States, whereas even 10 years ago it is hard to imagine that such activity on the other side of the globe would have been so closely tied to our economy.

The business model for how lawyers do their work is changing as well. We have always known that more than half of our members practice as

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that's why our teams are more senior; it doesn't cost the client any extra to have that senior person in the room, or to have an associate at a key deposition to learn strategy and technique."

The billable hour has long been cited as the root cause of lawyer dissatisfaction with the profession and client dissatisfaction with lawyers. Much of this drive to change billing structures is coming from corporate clients, as general counsels are getting pressure from CEOs and CFOs to contain costs and meet legal-fee budgets set for the year. In reaction to the increase in billing rates over the last 10 years, outside counsel use by corpora-

tions has also declined.

Our clients are also changing. The consuming public is resorting to a "Home Depot" mentality when it comes to legal services. Lawyers are expensive, and even if someone can afford a lawyer, people want to spend as little as possible. Clients are using technology more, and Legal Zoom boasts some two million satisfied customers. Cyber-settle is settling claims with no lawyers involved at all to the tune of more than \$1.8 billion in settlements performed. Google and LexisNexis have invested millions in Rocket Lawyer, and consumers can pay by the minute for lawyers

found at ingenio.com. As a profession, we need to embrace and understand the changes that technology is bringing since we know what impact technology brought to other professions such as newspapers, music, and books.

Finally, there has been much in the news the past year or more about legal education and the many issues facing the academy. New lawyers are graduating often with staggering debt loads, with loans exceeding \$100,000 for private schools and close to \$70,000 for public schools, and these amounts do not include any undergraduate loans students may have accumulated before law school. From 1989 to 2009, when college tuition rose by 71 percent, law school tuition shot up 317 percent. The job market these new lawyers face is difficult and only 65.4 percent of 2011 graduates with known employment had jobs that required bar passage. Finally, the law schools are under pressure to enhance their curriculum with more skills training courses and other studies that will help prepare graduates for the actual practice of law.

We are fortunate in our state to have three law school deans who are taking these issues head on and working to reform legal education and prepare their students for the needs of the 21st century lawyer. The American Bar Association is also addressing the problem through a task force appointed by last year's president and I have the honor of having been appointed to this task force that is looking at the future of legal education.

Many of you have seen the presentation I give on the future of the profession at CLEs and other venues, and it is about at this point in the presentation where I acknowledge that all of these trends can seem overwhelming — and perhaps even disheartening! — but I think this juncture in our profession offers us great opportunity for seizing the moment and "riding the wave" as I mentioned at the outset of this column. In my next column, I will outline the opportunities and where I think we can go from here. I also encourage you to join UW Law Dean Kellye Testy and me as we discuss these issues at a Town Hall on January 29th at 5:30 p.m. **NWL**

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