

Reviewing 2010 Should Make Lawyers Think About the Future

By Jim Calloway, Director, OBA Management Assistance Program

For many years now, during the OBA CLE Recent Developments program held each December, I have done a presentation called "Law Office Management and Technology Update." Several times I have also done a similar wrap-up in the *Oklahoma Bar Journal*.

So here's a quick look at some of the big trends this year and coverage of forecasts of future trends for the legal industry. Then we will follow up with law office technology trends next month.

Law firm consultants and others who follow the legal industry all agree that there are a host of negative pressures on the legal market. Among these are the lack of jobs for new lawyers while law schools continue to graduate 40,000 new students annually who want to find work, the generally weak economy, corporate general counsel pushing for lower fees, alternative fee agreements (AFAs) and more predictability, the continued impact of new technology tools in the legal marketplace and the probability of more layoffs in the future at the very large law firms.

At the 2010 OBA Annual Meeting in Tulsa, I listened as Chicago family lawyer Steven Peskind discussed future trends in the legal profession

at the OBA Family Law Section meeting. He discussed a lot of concepts, including the idea of virtual law offices, unbundling of legal services, alternatives to the hourly rate and discussed the possibility that there may be a greater need in the future for family lawyers to serve primarily as conflict managers rather than litigators.

Since most family lawyers (and most lawyers) find themselves extremely busy, this is a message that doesn't seem to square up with their reality today. Many managers in large law firms also continue to operate under the assumption that things will snap back to normal after this rough economic patch.

Even though we all hope that is the case, that's not the smart bet at this point. Lawyers who have not been following the national trends probably need to spend some time reading and thinking.

For example, one can visit *The New Normal* online. This is a feature that the *ABA Journal* has been running during the last half of this year at www.abajournal.com/topic/the_new_normal. The editor's note preceding each article in the feature explains, "The New Normal is an ongoing discussion between Paul Lippe, the

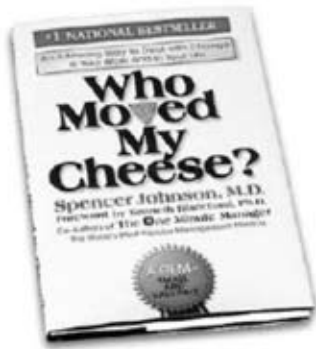
CEO of Legal OnRamp, and Patrick Lamb, founding member of Valorem Law Group. Paul and Pat spend a lot of time thinking, writing and speaking about the changes occurring in the delivery of legal services."

A challenging article was published in the *Connecticut Law Tribune* on Nov. 29, 2010. The article quotes Fairfield attorney Fred Ury's prediction that within a decade, there will likely be 10 percent to 40 percent fewer lawyers than there are today. He outlines his reasons for this rather startling prediction, which largely relate to new technology advances, globalization and shifts in the legal business marketplace. The article is online at www.ctlawtribune.com/getarticle.aspx?ID=38980.

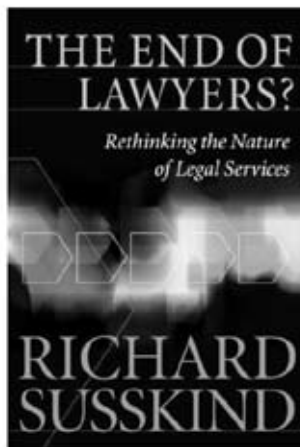
You do not have to buy into this version of the future or you may believe that Oklahoma is not as vulnerable to these trends as other places. But reading up on our challenges is always a good thing.

Let's expand our reading list from brief online articles to traditional books.

Dealing with change is difficult. A classic book on dealing with change is *Who Moved My Cheese* by Dr. Spencer Johnson, who also co-authored *The One*



Minute Manager and many other books. It is available on Amazon.com and according to the website www.whomovedmycheese.com, it has sold over 24 million copies worldwide and has been translated into 42 languages. It was a best seller in 2000.



I also suggest that the lawyer interested in the future of legal practice should buy a copy of *The End of Lawyers? Rethinking the Nature of Legal Services* by Richard Susskind. I certainly do not predict the end of lawyers in the face of the huge need for legal services in our society. But Susskind's message certainly resonates as he does around 50 speaking engagements per year.

Here's what I posted on my blog after hearing Richard

Susskind's keynote address at ABA TECHSHOW 2009:

"[H]e notes that business clients feel their lawyers are quite good at reacting to situations. But the clients wish there was more in the way of proactive legal services. Prevailing in litigation is good, but avoiding it is even better. Or, as Susskind put it, they would rather have a fence at the top of the cliff than great ambulance service at the bottom. (Of course, we all know that clients are more prone to contact their law firms when an ambulance is required rather than fence building.)

"Even after the world economy rights itself, he believes there will be continued pressure of clients wanting more legal services for less money. One of his long-held beliefs is the huge impact that emerging technologies will have on the legal profession. Technology advances can be sustaining or disruptive...Most of us attending ABA TECHSHOW this week agree with Susskind that there is more disruption ahead." *Jim Calloway's Law Practice Tips* (April 2, 2009) www.tinyurl.com/c988bh.

I have received promotional material for a new ABA book that proposes some solutions to these problems. I have not read it yet. But it is called *Law & Reorder: Legal Industry Solutions for Restructure, Retention, Promotion & Work/Life Balance*. The promotional material states:

"The need for change has become clear. Employers need to revamp their traditional models or invent new ones. Lawyers and law students must take charge of their careers and become entrepreneurs.

"*Law & Reorder* provides essential understanding of the new legal world of productivity, work/life balance, transition, leadership, mentoring, promotion, compensation and networking."



OBA members who are not ABA members are reminded that they can receive a 15 percent discount when ordering books from the ABA by using the OBA discount code: **PAB9EOKB** in the "Discount Code Number" field when placing your order on the ABA website.

THE ACC VALUE CHALLENGE

A discussion of changes in the legal industry would not be complete without mentioning the Association of Corporate Counsel (ACC). The ACC members are in-house corporate counsel who select and negotiate with lawyers for businesses. The ACC has over 23,000 in-house counsel members worldwide. The ACC has been quite active in promoting the idea to its members that there should be changes in law firm billing and operating methods. To that end, the ACC has developed and has been promoting the ACC Value Challenge.

"...the ACC Value Challenge is based on the concept that firms can greatly improve the value of what they do, reduce their costs to corporate clients and still maintain strong profitability." Michael Roster, Chairman, ACC Value Challenge Steering Committee.

The online address for ACC Value Challenge is www.acc.com/valuechallenge/. There are many papers for reading and download there. They outline approaches for negotiating with law firms, but also include suggestions for more efficiency within law firms.

But the ACC has gone far beyond just providing information. Just this month they issued a press release titled "Corporate Counsel Name 14 Newly Arrogant Firms" at www.law360.com/topnews/articles/213339. The release begins, "They are inflexible on rates, refuse to discuss alternative fees and delegate high priority communications to associates: they are the law firms considered most arrogant by corporate counsel. And 14 firms have won the designation this year for the first time, according to a new survey."

Before lawyers get too anxious, however, they should recall the famous Yogi Berra quote, "Prediction is very hard, especially about the future."

Enjoy your holidays and try not to read too much about the future at one sitting. Next month we will discuss legal technology trends, which for some of you may seem quite cheery by comparison.



ABA TECHSHOW CELEBRATES SILVER JUBILEE APRIL 11 – 13, 2011

ABA TECHSHOW has been helping lawyers incorporate cutting edge technology into their practices for 25 years. The 25th anniversary of ABA TECHSHOW will be held April 11-13, 2011, at the Chicago Hilton, Chicago, IL.

OBA members who are not ABA Members are entitled to a discount when registering for ABA TECHSHOW at www.techshow.com. Just use the OBA TECHSHOW Event Promoter Code EP1105 when registering.

This year's keynote speaker is professor Larry Lessig. He is the director of the Edmond J. Safra Center for Ethics, and a professor of law at Harvard Law School.

Educational tracks include Cloud Computing, Litigation, two Solo/Small Firm tracks (including one subtitled The Basics), two Smart Phone/Mobility tracks, e-discovery, one Paperless track and two for Power Users. You can see the schedule at www.tinyurl.com/23366q7.

This year's theme is Bringing Lawyers & Technology Together. Early Bird pricing is available until Friday, Feb. 25, 2011. After this date, registration fees will increase up to \$200 per category.