

Externships 8

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March 4, 2016

LEARNING FROM PRACTICE (2016) Chapter 27: Future of the Legal Profession and Legal Services Market

Quick Self-Test

Please check off which of the entities, concepts, or people listed below are familiar to you. In January 2012, I would not have heard of any of them. I think everyone teaching in legal education should be aware of the trends they represent. The next two sheets explain briefly what they are, and all are discussed in Chapter 27.

\_\_\_ LegalZoom

\_\_\_ A2J Clinic Project

\_\_\_ Virtual law firms

\_\_\_ Slater & Gordon (the first publicly-traded law firm in the world)

\_\_\_ Lex Machina

\_\_\_ U.K. Alternate Business Structure licensing process

\_\_\_ LawHelp Interactive

\_\_\_ Richard Susskind & his 5 stages of evolution in service provision

\_\_\_ Axiom Law

\_\_\_ ABA Commission on the Future of Legal Services

\_\_\_ Shake

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### **Some self-test answers**

These “answers” are from Chapter 27 of LFP. I knew none of them in January 2012 and probably not most of them until the past couple of years (and then I got pretty shocked about what I didn’t know.) I think they represent factors and trends in the professional and legal services market world our students will face, and they need to become aware and think about these factors and trends.

\_\_\_ **LegalZoom.** I hadn’t heard of them until January 2012 at an AALS lunch speech on “the future” when Richard Matasar, former dean of a few law schools, described how his daughter used them to incorporate her business for \$600. Of course, if you listen to NPR, you have certainly heard of them now.

\_\_\_ **A2J Clinic Project.** Spurred by the Legal Service Corporations Technology Innovation Grant program; links law students in clinics to expert poverty law providers to create automatic-document-assembly programs for particular types of legal problems with an interface that can be navigated more easily by clients and people assisting them. A 2014 finalist for the Hague Institute for the Internationalization of Law’s Innovating Justice Awards. For more information see Ronald W. Staudt, *All the Wild Possibilities: Technology That Attacks Barriers to Access to Justice*, 42 LOY. L.A.L.REV. 1117 (2009)

\_\_\_ **Virtual law firms.** Fully virtual law firms with no bricks-and-mortar office at all (and possibly operating with the lawyer living in another state) or a combination of virtual with “regular” office. Software for virtual law firms allows clients 24/7 access to documents, billing information, and a payment portal such that people can buy legal services in the same manner as other consumer goods. Richard S. Grant & Stephanie Kimbro, *The Future of Virtual Law Practice*, THE RELEVANT LAWYER: REIMAGINING THE FUTURE OF THE LEGAL PROFESSION 83, 84–88 (Paul A. Haskins ed. 2015).

\_\_\_ **Slater & Gordon.** The first publicly-traded law firm in the world. 2015 3800 staff in UK and 1400 in Australia.

\_\_\_ **Lex Machina** “Moneyball law,” big data analysis. A machine learning system to interpret legal filings with a database of patent cases going back to 2000. *Forbes* magazine described as allowing companies to “handicap[] law firms based on their win-loss records before specific judges with specific procedural maneuvers, so in-house attorneys can determine who [*sic*] to hire.”

\_\_\_ **U.K. Alternate Business Structure licensing process.** Through December 2014 more than 400 licenses granted for entities allowing non-lawyer ownership, management, and investment in law firms—many multidisciplinary practice entities. See Laura Snyder, *Flexing ABS*, 101 A.B.A.J. 62 (2015).

\_\_\_ **LawHelp Interactive.** Legal Services Corporation Technology Innovation Grant Initiative: 2.3 million documents between 2005-2015.

\_\_\_ **Richard Susskind & his 5 stages of evolution in service provision:** Richard Susskind, Susskind is the author of *THE FUTURE OF LAW: FACING THE CHALLENGES OF INFORMATION TECHNOLOGY* (1996), *TRANSFORMING THE LAW: ESSAYS ON TECHNOLOGY, JUSTICE AND THE LEGAL MARKETPLACE* (2000), *THE END OF LAWYERS: RETHINKING THE NATURE OF LEGAL SERVICES* (2008); and *TOMORROW'S LAWYERS: AN INTRODUCTION TO YOUR FUTURE* (2013) (written specifically for law students and young lawyers). Almost any “futures” discussion and impact of technology quotes Susskind. I agree with him that lawyers and law schools are mostly frozen in a “bespoke” mindset. His most recent book, written with his son, is *THE FUTURE OF THE PROFESSIONS* (2015).

\_\_\_ **Axiom Law** In 2013 predicted by the BeatonCapitol blog to be the world’s largest legal services firm by 2018 while their website explains they are not a law firm because they can’t be under U.S. ethical rules. It goes on to say though that they “don’t mind . . . [because] we were actually built on the premise that the current law firm model is broken so we don’t mind being something completely new and different.” Axiom is reported to do work for at least ½ of Fortune 100 companies with 1300+ employees across three continents as of July 2015.

\_\_\_ **ABA Commission on the Future of Legal Services** Established June 2014 to complete work 2016. First action product approved by ABA in February 2016: regulatory objectives for nontraditional legal services. Looking at licensing of non-lawyer service providers, reconsidering ABA position on multidisciplinary practice and management, ownership, and investment in law firms by non-lawyers. [http://www.americanbar.org/groups/centers\\_commissions/commission-on-the-future-of-legal-services.html](http://www.americanbar.org/groups/centers_commissions/commission-on-the-future-of-legal-services.html)

\_\_\_ **Shake.** A tablet-based contract-drafting application pitched toward small businesses, reported being used for more than \$1 million in contracts through September 2013.

**Mechanizing what?** Much of Richard Susskind’s writing and some of the innovations concern the ability of Artificial Intelligence to replace much of what lawyers do. A recent SSRN posting, *Can Robots Be Lawyers? Computers, Lawyers, and the Practice of Law*, explores how much of what lawyers do can be mechanized. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2701092](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2701092) This kind of discussion about mechanizing legal analysis is different from analyses of how much time, particularly lawyers in solo and small practices, spend on things that are not “lawyering,” for which they are not well trained, and which likely could be done more cheaply and better with economies of scale, *e.g.*, market research on what potential clients actually need, advertising, collecting bills, office administration, design of user-friendly interfaces that clients could use. For a good article about this see, Gillian Hadfield, *The Cost of Law: Promoting Access to Justice Through the (Un)Corporate Practice of Law*, 38 INT’L REV. L. & ECON. 43 (2014). Gillian Hadfield, both a lawyer and Ph.D. in economics has written several excellent pieces on increasing access to legal services for low- and middle-income people.

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Chapter 27's final exercise

Exercise 27.6 Jordan Furlong suggested the following exercise for lawyers in the December 2014 end-of-year post on his Law21 blog. You do not yet have experience as a practicing lawyer to draw on, but you can use your externship, other job and clinical legal experiences, your time in law school, and extrapolate from your other work, volunteer, and professional experiences. Below is a version adapted a bit to the law student perspective.

Make three columns on a piece of paper or a computer.

Furlong's first column is "everything you love about being a lawyer." As a student, consider everything about your legal experience thus far that you loved—and at least what you liked a lot. Consider your experiences with legal work, law school courses, and law school co- and extra-curricular activities. Think also about why you came to law school and what your greatest passions were in pre-law school experiences. Consider specifically what it is you liked about these experiences in law school and before. Furlong observes that lawyers probably will identify in this column the parts of lawyering "most closely associated with actual people and actual service," the parts "least susceptible to automation and outsourcing."

The second column for lawyers is what you "really don't like about being a lawyer: what bores you, discourages you, upsets you, gets put off or rushed through because the thought of facing it makes you question your career choice." Furlong observes that some of this work may be unavoidable, but much of it is "amendable to change, systematization or outsourcing to more appropriate providers." Computers are good at tedious, repetitive, boring work—and they do not get frustrated by it. Neota Logic is a New York firm that has created a no-code platform so lawyers and other professionals can develop automated applications for area of law, risk management, and so on. They describe their work as "building robots and destroying dumb jobs—the ones lawyers don't do cost-effectively at scale, and really don't or shouldn't want." What work do you see at your placement, in other legal jobs, or as tasks you have done in law school that seems software could be programmed to do or could be done by people without three years of law school?

The third column is for "everything you wish you could do as a lawyer"—the help you like to provide, the people you wish to serve, the "insights and assistance and improvements" that you would like to happen in the provision of legal services.

Then synthesize the first and third columns to consider possibilities for a legal career. From Furlong: "Take the second column and look for ways to move these items off your desk and ideally, out of your practice altogether, into the waiting arms of a growing array of specialists who will do them for you, and do them better than you." (Perhaps some of you with an entrepreneurial bent will think about how to create and improve those services as well.)