

Improving Access to Justice Through Technology and Regulatory Innovation

Andrew Perlman

Dean and Professor of Law



SUFFOLK
UNIVERSITY
BOSTON

LAW
SCHOOL

Law Practice in the Past



Law Practice in the Past

Trials

Solo Practice

Books

Lawyer Generalists

Physical Offices

Knowledge Management Cybersecurity

Virtual Law Offices

Email

LA

RAPID

AY

Exp

CHANGE

ations

Unbundling

Legal Analytics

Online Marketing

E-Discovery

Automated Document Assembly

What new competencies do lawyers
need today?

The Evolving Ethical Duty of Technological Competence

Comment [8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

In just the last 2 years, adoption in 14 jurisdictions

- Arizona
- Arkansas
- Connecticut
- Delaware
- Idaho
- Kansas
- Massachusetts
- Minnesota
- New Mexico
- North Carolina
- Ohio
- Pennsylvania
- West Virginia
- Wyoming

In law school,
students are trained to look
backwards

– to precedents, past practices –
instead of to

the future of legal services.

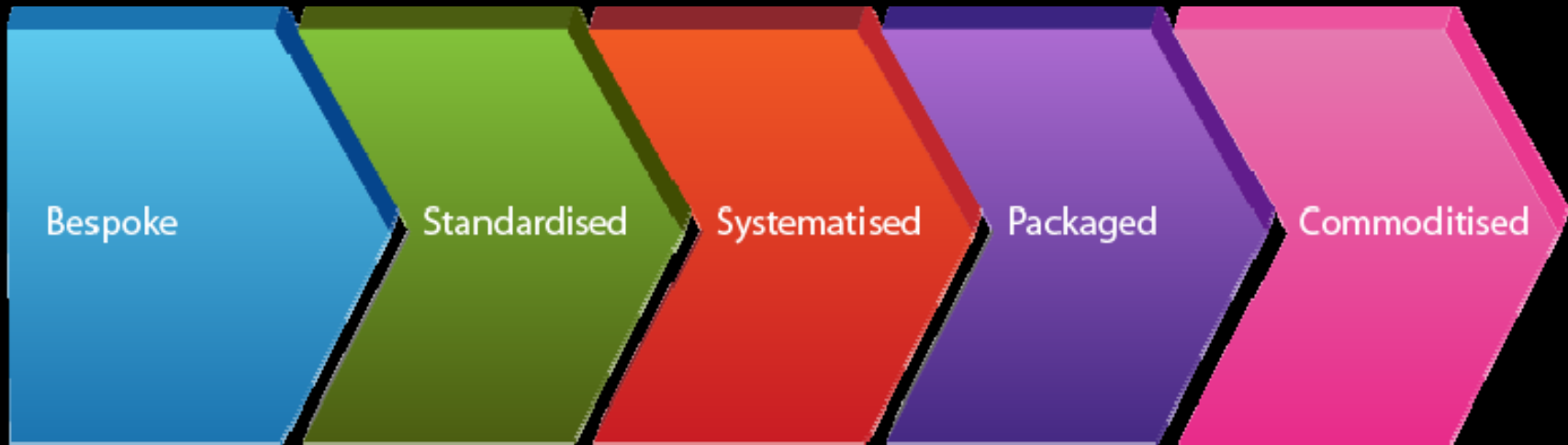
Legal Futurist Richard Susskind Quoting
Wayne Gretzky:



“Skate to Where the Puck’s Going,
Not Where It Is.”

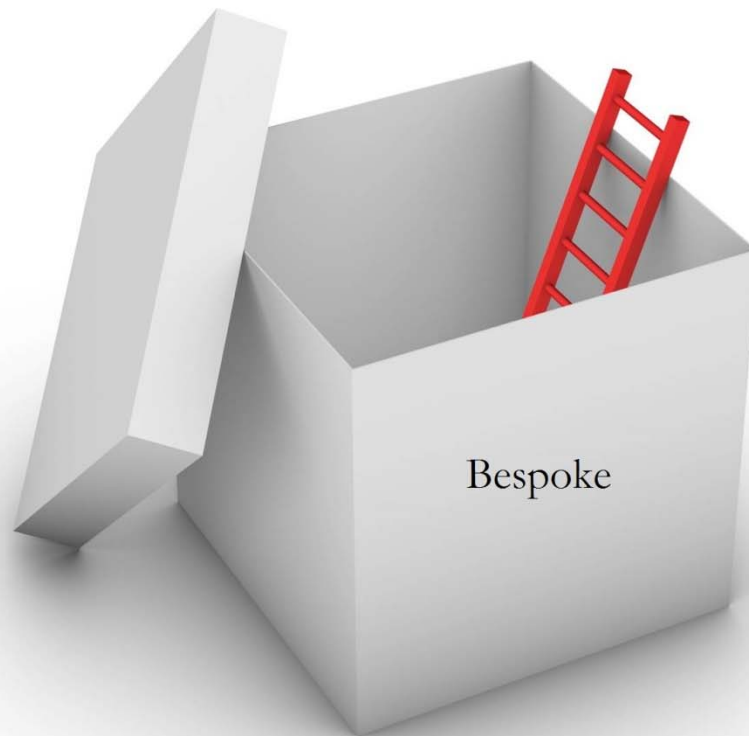
Where is the puck going?

The Evolution of Legal Services



Richard Susskind, *The End of Lawyers?* (2010)

If we hope to improve access to justice,
lawyers (including regulators) need to
think outside the bespoke box.



How?

Ideas Under Consideration

- Regulatory goals and objectives
- State judicial creation and regulation of new types of legal service providers?
- Entity-based regulation?
- Alternative business structures?
- Other ideas for improving access to justice?

You started here as well...

“Any change that the Committee considers must take into account the core values of our system of justice, including the exercise of independent judgment on behalf of clients, the absence of conflicts, and confidentiality of client communications. The Committee will also consider the need to protect the public from unskilled advisors and the effects of unrepresented parties on the court system.”

Draft Resolution

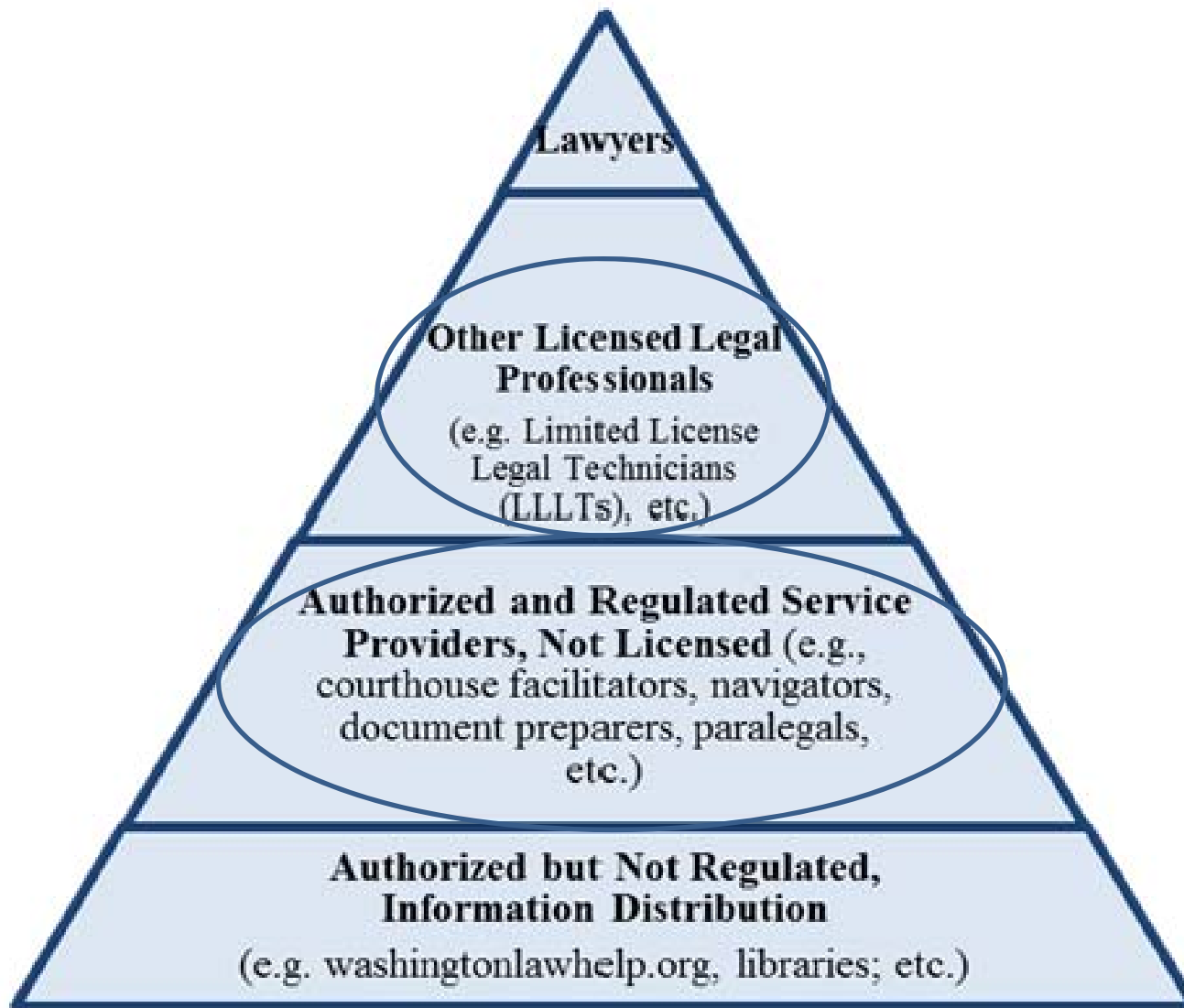
RESOLVED, That the American Bar Association urges each state's highest court, and those of each territory and tribe, to be guided by ... ABA Model Regulatory Objectives to help (1) assess the court's existing regulatory framework and (2) identify and implement regulations related to legal services beyond the traditional regulation of the legal profession.

Proposed Model Regulatory Objectives

- A. Protection of the public
- B. Advancement of the administration of justice and the rule of law
- C. Meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems
- D. Transparency regarding the nature and scope of legal services to be provided, the credentials of those who provide them, and the availability of regulatory protections
- E. Delivery of affordable and accessible legal services
- F. Efficient, competent, and ethical delivery of legal services
- G. Protection of privileged and confidential information
- H. Independence of professional judgment
- I. Accessible civil remedies for negligence and breach of other duties owed, and disciplinary sanctions for misconduct
- J. Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system

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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Case No.: 1:15-CV-439

LEGALZOOM.COM, INC.,

Plaintiff,

v.

NORTH CAROLINA STATE BAR;
RONALD L. GIBSON, in his official
capacity only; JOSHUA T. WALTHALL in
his official and individual capacities;
FERN GUNN SIMEON in her official and
individual capacities; and JOHN N.
FOUNTAIN, in his official and individual
capacities,

Defendants.

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

Topics Under Consideration

- Regulatory goals and objectives
- State judicial creation and regulation of new types of legal service providers
- Entity-based regulation
- Alternative business structures

Alternative Business Structures: A Range of Approaches

- Passive equity investors/publicly traded law firms
- Multidisciplinary practices (owned and operated by nonlawyers)
- Multidisciplinary practice (at least partly lawyer controlled) (e.g., accountants & lawyers operate a firm, where lawyers provide legal services and consultants provide separate consulting services)
- Nonlawyers have ownership interest, but they provide services in connection with legal services only (not MDP) (e.g., the accountants must be providing services in connection with the lawyer's practice)
- Same as previous, but with caps on nonlawyer ownership and control (e.g., Washington, D.C. & Washington State)

Other Ideas to Consider

- Online triage tools
- Legal checkups
- Expanding the jurisdiction of small claims courts
- Online dispute resolution services (see the U.K. model)

Your Mandate

The role of the Legal Professionalism Committee is to consider and evaluate possible changes in our system of delivery of legal services. The Committee will explore ways to address structural challenges that affect access to justice, including the barriers that create a lack of affordable legal services for large segments of our population, the costs and debt associated with a legal education, and the challenges of developing and sustaining a legal career.

Thoughts on Legal Education

ABA Task Force on the Future of Legal Education (2014)

- Mismatch Between Curriculum and Goals. . . .
[A]lthough changes in the delivery of legal services have made competence in the use and management of law-related technology important, *only a modest number of law schools currently include developing this competence as part of the curriculum.*

Modest, but growing...

- Brigham Young
- Chicago-Kent
- Columbia
- Florida Coastal
- Georgetown
- Hofstra
- Michigan State
- Pittsburgh
- Suffolk Law
- Vermont Law

Source: ABA Law Practice Today
(2014)

An Example:



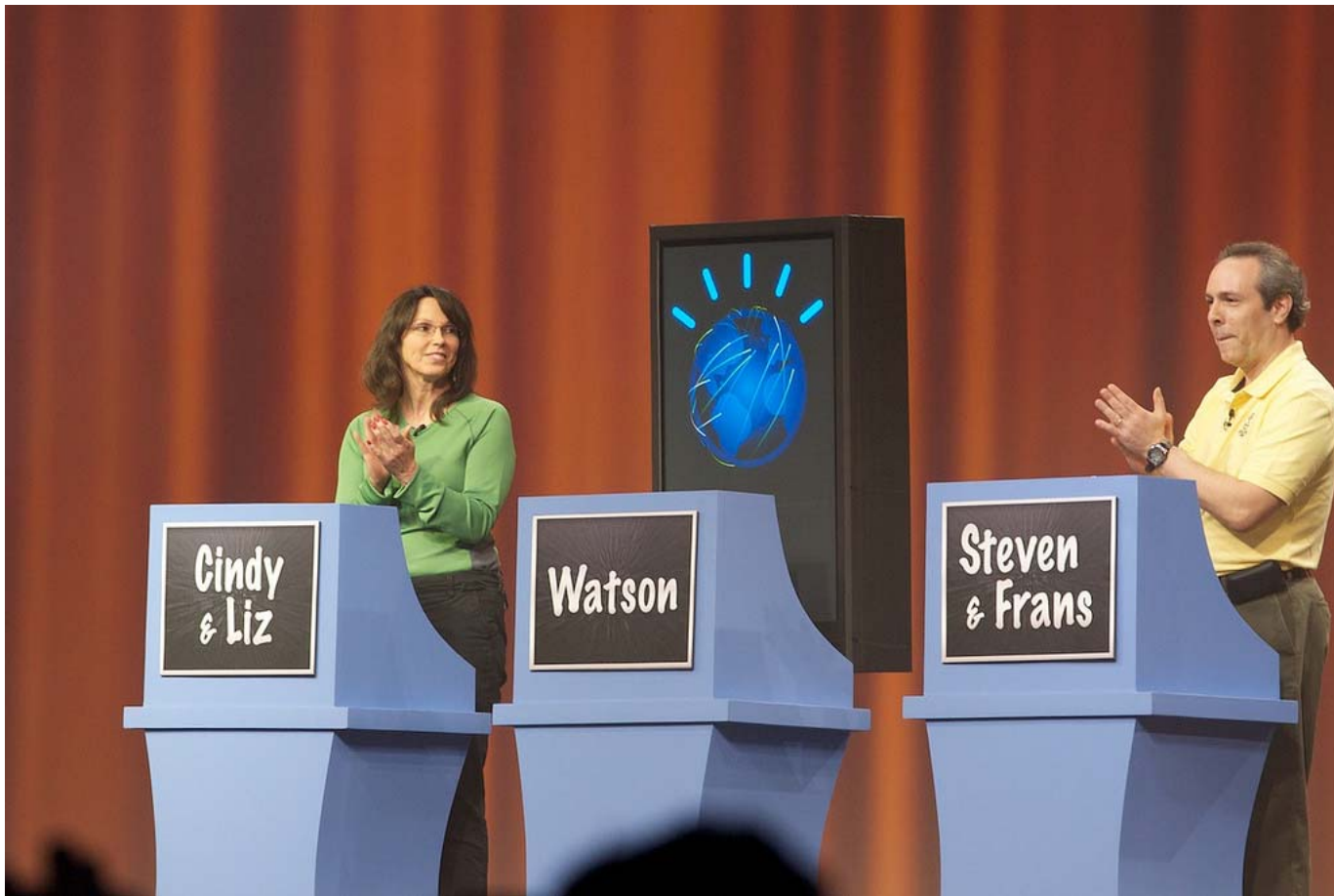
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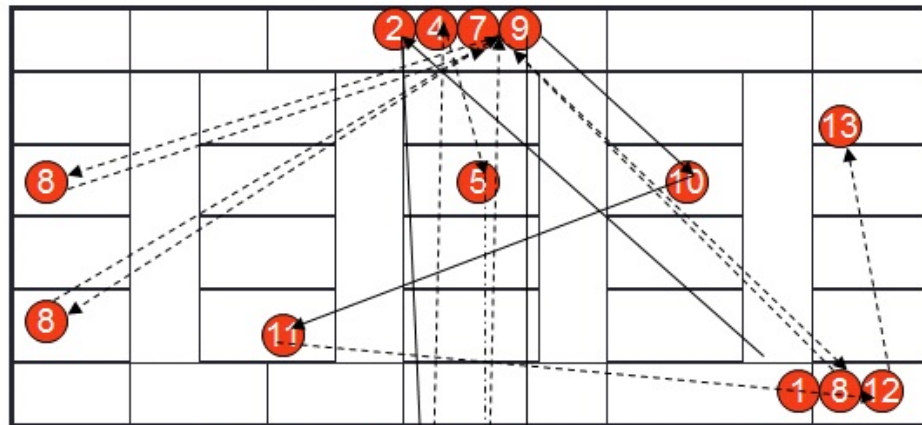
**New Course Offerings
Packaged as a Legal Technology and
Innovation Concentration**



Lawyering in an Age of Smart Machines



Legal Project Management and Process Improvement



Example: Legal Department Negotiates Master Agreement with Vendor

1. Business unit wants to use vendor; initiates request
2. Contracts Administration sends info packet with standard agreement to vendor
3. Vendor reviews documents and proposes changes
4. Contracts Administration notes changes and forwards to Legal Department...

The 21st Century Legal Profession

- Identify a market niche
- Develop a business plan, including how to leverage technology to deliver the service competitively and profitably
- Insights about marketing

Professional Responsibility Through Simulations

Online Law Practice
21ST CENTURY
LEGAL ETHICS ISSUES
VIRTUAL LAW
FIRMS
Management

Internships with 21st Century Legal Employers

- Legal project management
- Knowledge management
- Automated document assembly
- E-discovery
- Legal process outsourcing