Update: The Legal Industry of Tomorrow ... Arrived Yesterday Last Year

Aviva Meridian Kaiser, Ethics Counsel
State Bar of Wisconsin

2018 State of the Legal Market Report
Thomson Reuters Legal Executive Institute and Center for the Study of the Legal Profession at Georgetown University Law Center, 2018 Report on the State of the Legal Market

- "Law firms have spent much of the past decade fortifying themselves against anticipated future challenges as the legal market continues to evolve rapidly around them."
- "Unfortunately for many firms, the strategies they're employing to deal with this unprecedented change are based on how the market has behaved in the past."
- "Such rearview-mirror thinking may leave many firms unprepared for the depth and breadth of rapid transformations sweeping the legal industry."
Access to Justice Gap

- The U.S. ranks 67th in the world for accessibility and affordability in civil justice—tied with Uganda. [World Justice Project: Rule of Law Index's 2012-2013 Report](https://worldjusticeproject.org/)

- In a county with 1.3 million lawyers, a 2015 study by the National Center for State Courts found that at least one side lacked an attorney in three-quarters of state court civil cases. That means people are forgoing legal advice as they wrestle with weighty matters like housing, debt relief, public benefits, and divorce and custody.
Internet-Centered Legal Solutions?

We can buy books without bookstores. We can get music without record stores. We can see movies without theatres. Once, these were all unthinkable.

Can we have legal solutions without lawyers and law firms? Can we have dispute resolution without courts?

Let's think about that.

12:57 PM · 14 Sep 2018

What is 700?

- There are currently over 700 technology platforms providing varying levels of legal services to consumers and connecting clients to lawyers. That number will continue to grow. (National Organization of Bar Counsel, January 2018)
The Realities of An
Internet-Centered Economy

- Think Virtual Marketplaces: Uber, AirBnB, Facebook, Alibaba
- Think Consumer Self-Navigating Ecosystem
- Think Spontaneous Private Deregulation
- Think Artificial Intelligence

“Uberization” and
“Spontaneous Private Deregulation”

- In economic terms, “uberize” means “to modify a market or economic model by the introduction of a cheap and efficient alternative,” or “to change the market for a service by introducing a different way of buying or using it, especially using mobile technology.”
- The term “uberization” is used interchangeably with the term “spontaneous private deregulation.”
- The term “uberization,” however, is frequently used pejoratively: it is “often associated with a move away from regulation, even a decline in quality, as the more informal style of doing business can lead to a decline in professional standards.”
Spontaneous Private Deregulation

- Many successful platform businesses, such as Uber and Airbnb, openly disregard existing laws and regulations, which are seen as obsolete and as roadblocks to innovation.
- This “rule-flouting” phenomenon has been coined “spontaneous private deregulation.”
- Spontaneous private deregulation is increasing as business platforms circumvent regulations that make traditional businesses less competitive.

Businesses Susceptible to Spontaneous Private Deregulation

Business may be more susceptible to spontaneous private deregulation when
- the need for governmental regulation is minimal;
- government regulation is ineffective;
- government regulation, which is intended to protect consumers, protects license holders from competition; and
- the consumers can easily acquire the necessary information.
The Practice of Law Is Not Immune
Benjamin Edelman and Damien Geradin, “Spontaneous Deregulation”
https://hbr.org/2016/04/spontaneous-deregulation

- “For example, many lawyers perform services that don’t really require the personal engagement of an expensive trained professional.... Routine legal transactions are likewise becoming manageable without three years of law school, thanks to digital tools.”

Lawyer and Law Firm Substitutes and Alternative Legal Service Providers

“A lawyer substitute would be a person or process whose use provides outcomes so similar to those a lawyer would provide that it doesn’t really matter whether you hire the lawyer or the substitute – and if the lawyer becomes too costly, the substitute will become the first choice.” Law is a Buyer’s Market

- Online Document Providers
- Contract Drafting and Analytics
- Legal Research Databases
- Legal Artificial Intelligence
- Technology-Assisted Review
- Online Dispute Resolution
- Limited License Legal Technician (LLLT)
Alternative Legal Services Providers

- The genesis of ALSPs "is unmet legal consumer demand for value-driven, efficient, cost-effective, data-reliant, predictive, proactive, interdisciplinary solutions to customer challenges."
- ALSPs are generally niche companies that specialize in high-demand legal services such as document review, contract management, litigation support, discovery, contract lawyers and staffing, investigation support, and legal research.
- ALSPs provide one or more services at a lower cost or with other advantages such as the use of technology and AI, refined processes and methods, and increased expertise, flexibility and speed. They are often described as "agile, proactive, fluid, able to scale, aligned with consumers, and constructed to deliver at the speed of business."
- Businesses turn to these innovative companies for many routine legal services.
- Law firms outsource jobs to ALSPs that would be too expensive or time-consuming to do within the firm.

Axiom, UnitedLex, Accounting and Audit Firms

- "Axiom has active dialogue and relationships with over 20,000 in-house counsel worldwide and a reputation for bringing them credible, innovative solutions to seemingly intractable business of law problems." (Above the Law) "A more sweeping transformation may be on the horizon. And it may look a lot like Axiom." (The New York Times) Axiom has a nine-figure annual revenue.
- "UnitedLex is the leading enterprise legal services provider that drives digital transformation throughout the corporate legal ecosystem. With more than 2,700 attorneys, engineers, and consultants across four continents, we deploy innovative solutions to deliver unparalleled business impact for global corporations and law firms." UnitedLex has inked $1.5 billion of multi-year legal work during the last 18 months.
- The "Big Four" accounting and audit firms are continuing to redraw the professional boundaries. Each has obtained an "alternative business structure" license which permits them to practice as law firms in the UK and Wales. The "Big Four" collectively employ approximately 10,000 attorneys globally with expertise in practice areas such as tax, immigration, corporate, litigation support, regulatory work, and labor and employment.
Online Dispute Resolution

- ODR is a distinct type of alternative dispute resolution because it involves the use of artificial intelligence to resolve a variety of dispute types online. For example, the Modria Platform was "built by the team that created the world's largest online dispute resolution systems at eBay and PayPal that process 60 million cases per year." Modria has termed itself "the Internet's justice system."

- "Modria typically resolves 60-90% of eCommerce disputes without customer service intervention. We do this through pre-configured resolution flows, an online "resolution room" for each issue, and a unique user experience."

Online Dispute Resolution in the Courts:
Modria Acquired by Tyler Technologies in 2017

- Today, ODR is being piloted by the courts in minor criminal cases such as traffic violations or code enforcement violations, online mediation, and binding resolution of disputes of many types including landlord-tenant, small claims, and domestic disputes.

- "Modria will provide Tyler's court clients with efficient ways to handle large volumes of disputes in an automated fashion, through integration with Odyssey. Specifically, it will help reduce the number of cases that need to be heard, leading to reduced costs in the court and in clerk offices for supporting these hearings."
Online Dispute Resolution in the Courts: Tyler Technologies Predict

- In a Legal Rebels Podcast from October 17, 2018, the Vice President of Tyler Technologies predicted that in five to seven years, 50% of U.S. residents who file cases will have access to ODR.
- And 80% of those cases will be resolved by ODR.

Online Dispute Resolution in the Courts

- The 8th Judicial District Court of Clark County, Nevada, has gone live with Tyler’s Modria® online dispute resolution, which adds a new tool for access to efficient and timely justice in divorce cases for Clark County citizens. Residents can attempt to resolve differences online, avoiding delays in scheduling, driving to and from court, time off from work, and making it easier for residents to interact with the court. (April 2018)
- The Travis County Justice of the Peace will use Modria to help residents resolve disputes online. Travis County is the first court in Texas to select Modria, allowing parties involved in a lawsuit to engage directly with each other to reach a resolution without coming to court. This will save residents and the court time and money. (June 2018)
NEWLAW BUSINESS MODELS

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for entrepreneurial lawyers

Eyeball Law
Experienced lawyers charge a flat fee to "eyeball" clients. DIY form documents for legal compliance.

Horseshoe Law
A subscription service integrated with company's product or sales team. Lawyer "rides up," assesses the problem, offers feedback and resolves on. Propos to Google for the concept.

Diskhead Law
Law from franchise that provides a single discrete & clearly branded service, faster and better than others. Molded on Jiffy Lube and Tiny Tike.

Women Law
Threshold law on a massive scale. All general legal services offered, with economies of scale from centralized procurement and product development.

TMT Law
A law firm in a new law form subservient of a tech firm that addresses tiny problems like tickets, low value contracts, small collections and in-house matters not economical for a lawyer to handle.

High-end, bespoke law practice for clients willing to pay extra for the experience.

DoNotPay App aims to help users sue anyone in small claims court---without a lawyer.
DoNotPay: New App Lets You
"Sue Anyone By Pressing a Button" (continued)

- DoNotPay is a free app that is designed to help normal people fight big corporations in small claims court.
- Some of the biggest barriers preventing people from filing lawsuits in small claims court are the time and money that it takes to fight what could be a trivial case, such as winning a parking ticket dispute, getting a rideshare refund, or a refund for late package delivery.
- But a new, free app promises to let you “sue anyone by pressing a button” and have an AI-powered lawyer fight your case. People fight big corporations in small claims court.

DoNotPay App (continued)

- Do Not Pay, a free service that launched in the iOS App store on October 10, 2018, uses IBM Watson-powered artificial intelligence to help people win up to $25,000 in small claims court.
- It is the latest project from 21-year-old Stanford senior Joshua Browder, whose service previously allowed people to fight parking tickets or sue Equifax. Now, the app has streamlined the process.
- It is the “first ever service to sue anyone (in all 3,000 counties in 50 states) by pressing a button.”
DoNotPay App (continued)

- The robot lawyer actually wins in court. In its beta testing phase, which included releases in the UK and in select numbers across all 50 US states, Do Not Pay has helped its users get back $16 million in disputed parking tickets.
- In a phone call with Motherboard, Browder said that the success rate of Do Not Pay is about 50 percent, with average winnings of about $7,000.
- "I was a terrible driver when I turned 18. I got about 30 parking tickets, [so] I created the first version of Do Not Pay to help people get out of their parking tickets," Browder said. "This made me realize I should probably expand this into other areas of the law. If people are being conned with parking tickets, they're probably being conned elsewhere."
- DoNotPay also acquired Visabot, an app for immigration issues.

LawCo: A "Lead Generation Machine"
LawCo: A “Lead Generation Machine” (continued)

- In fall 2018, the LawCo app and website were launched.
- Potential clients can download the app or visit the website and describe their legal issue.
- If a lawyer who reads the description is interested, the lawyer pays $65 to connect with the potential client.
- The developer, an Illinois lawyer, says that "it's a lead generation machine."
- Opponents are sensitive to the charge that they are guarding their turf; that their position is one of "guild mentality" or "professional protectionism."

Basic Counsel: Flat-Fee, Limited-Scope Legal Help
Basic Counsel: Flat-Fee, Limited-Scope Legal Help

- Basic Counsel went live in October 2018, but remains in a beta phase.
- Consumers search the site for the service they need in their location.
- Attorneys post their services on the site, outline and describe the steps involved in performing the service. The outlines help consumers understand the scope of a service before purchasing it.
- When the consumer buys the service, the fee is sent directly to the lawyer. Basic Counsel collects a separate “platform fee” from the consumer of 5% of the service cost.
- Once the service is purchased, the outline keeps both the client and lawyer informed about the progress of the matter.
- Both client and lawyer can track and manage the case through a dashboard, which includes the outlined steps and functions as a project-management tool. The dashboard can also be used to share documents and exchange messages.
How Text A Lawyer Works

- Text A Lawyer is “modeled after the ride-sharing service Uber in that it uses two separate mobile apps, one for consumers to submit legal questions and another for lawyers who are in a waiting pool ready to give answers.”
- While Text a Lawyer is set to launch in Oregon and Washington only, and for landlord/tenant issues only, it plans to expand nationwide and is looking for investors.
- After opening the consumer Text A Lawyer App, the consumer is prompted to select the state and the area of law, and to describe the legal question in a few sentences.
- When the consumer submits the question, the payment-processing company places a hold on the consumer’s credit card but does not charge the card.

How Text A Lawyer Works (continued)

- The app next prompts the consumer to provide the names of others involved such as adverse parties and witnesses so that the lawyer can check for conflicts.
- Text A Lawyer then automatically selects the highest-rated lawyer who is online and who fits the state and practice area chosen by the consumer.
- After the lawyer verifies that there is not a conflict of interest, the consumer is then asked to agree to the terms of the lawyer’s limited engagement agreement. Only after the consumer has agreed to the limited scope representation is the consumer’s question sent to the lawyer.
- The consumer and the lawyer are then connected in an encrypted chat window where the lawyer can ask clarification questions.
How Text A Lawyer Works (continued)

- When the lawyer submits the final answer, the consumer’s credit card is charged.
- The consumer has two minutes to read the final answer and decide whether to ask a follow-up question or disconnect. The consumer is charged $9 for each follow-up question.
- Once the consumer chooses to disconnect, the engagement is concluded. The consumer and the lawyer may, however, extend the relationship outside the app.
- After the engagement is concluded, the consumer is asked to rate the lawyer on a 1 - 5 scale.
- The ratings are used by Text A Lawyer to assign lawyers: the ratings are not made available to the consumers.
How Text A Lawyer Works (continued)

- The lawyer earns $15 of the $20 for the initial question, and $8 of the $9 for each additional question.
- Text A Lawyer takes $5 of the initial fee: $4 for a connection fee and $1 for a software licensing fee. While a blog describes the $4 as is a connection fee, the app’s developer describes it as an “attorney verification fee,” which includes identity and license verification services.
- In its demo video, Text A Lawyer provides an example of how a lawyer can “make money whenever, wherever.”
- The lawyer spent 12 minutes using Text A Lawyer during which time the lawyer processed three clients, one of whom was rejected and two of whom were accepted. In the 12 minutes, the lawyer earned $46 from two initial questions and two follow-up questions. At that rate, according to the video, the lawyer would earn $230 per hour. The lawyer was also re-hired for traditional legal services on the same day.

What Exactly Is Text A Lawyer?

- Text A Lawyer does not characterize itself as advertising, a referral service or a recommendation.
- The demonstration video states that Text A Lawyer is compliant with the Rules of Professional Conduct.
- However, on-line services that connect lawyers and clients risk violating SCR 20:7.2, which governs advertising, referral services and recommendations.
- SCR 20:7.2(b) prohibits a lawyer from giving anything of value to a person for recommending the lawyer’s services. Lawyers are permitted, however, to pay the reasonable costs of advertising and to pay the usual charges of a not-for-profit or qualified lawyer referral service.
Is It Advertising?

- A lawyer is permitted by SCR 20:7.2(a) to advertise services through written, recorded or electronic communication, including public media.

- ABA Comment [1] states: "To assist the public in learning about and obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising."

- ABA Comment [2] states: "This Rule permits public dissemination of information concerning a lawyer's name or firm name, address, email address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language ability; names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance."

Is It Advertising? (continued)

- In addition, SCR 20:7.2(b)(1) specifically permits a lawyer to pay the reasonable cost of advertising. ABA Comment [5] explains:

- Paragraph (b)(1), however, allows a lawyer to pay for advertising and communications permitted by this Rule, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, Internet-based advertisements, and group advertising. A lawyer may compensate employees, agents and vendors who are engaged to provide marketing or client-development services, such as publicists, public-relations personnel, business-development staff and website designers.
Is It Advertising? (continued)

- Text A Lawyer, on its face, does not appear to be advertising as contemplated by SCR 20:7.2(a) and ABA Comment [1] and [2]. The consumer does not even know the lawyer’s identity; the app selects the highest-rated lawyer in the waiting pool. There appears to be no public dissemination of information concerning the lawyer that would invite those seeking legal assistance to contact the lawyer.
- Moreover, Text A Lawyer also does not appear to be advertising as contemplated by SCR 20:7.2(b)(1) and ABA Comment [5]. The “connection fee” and “software licensing fee” are not the types of advertising and communications illustrated by ABA Comment [5].

Is It A Referral Service?

- A lawyer is permitted by SCR 20:7.2 (b)(2) to pay the usual charges of a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority.
- Text A Lawyer is not a not-for-profit referral service, and it has not been approved by the Wisconsin Supreme Court, the appropriate regulatory authority.
- If Text A Lawyer is a referral service, it is an impermissible referral service in violation of SCR 20:7.2(b).
Is It A Referral Service? (continued)

- Text A Lawyer’s demonstration video is silent about whether it is a referral service. In his interview for Stanford Law School blog CodeX, the founder stated: “It’s tough to choose a lawyer. Our system removes the choice because customers are always connected to the highest rated lawyer available. All clients rate their lawyer from 1-5 stars at the end of the conversation. This rating is kept internal; the clients never see the rating. This prevents legal ethics problems with a lawyer referral service, which we are not.”
- Even though the founder asserts that it is not a referral service, Florida has concluded that a similar service, Avvo Advisor, is in fact a referral service. Avvo Advisor offers a 15-minute consultation with a lawyer for $39. A prospective client visits the website, selects the legal topic, pays Avvo $39, and Avvo arranges for an “experienced lawyer” to return the prospective client’s call within minutes.

Is It A Recommendation?

- “Recommendation” is defined in ABA Comment [5] to SCR 20:7.2. “A communication contains a recommendation if it endorses or vouches for a lawyer’s credentials, abilities, competence, character, or other professional qualities.”
- A lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator does not recommend the lawyer and the lead generator’s communications comply with the rule governing communications concerning a lawyer’s services, SCR 20:7.1.
- To comply with SCR 20:7.1, “a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person’s legal problems when determining which lawyer should receive the referral.”
Is It A Recommendation? (continued)

- Text A Lawyer's demonstration video begins: "Text A Lawyer: The Right Lawyer. Right Now." In addition, the demonstration video states that "clients are always connected to the highest-rated lawyer available."
- Yet Text A Lawyer appears to believe that it is not recommending the lawyer because the ratings are "kept internal" and because Text A Lawyer does not independently evaluate lawyers, except for a daily scan of bar disciplinary pages to deactivate any lawyer who has been disbarred or suspended.
- It seems inconceivable that Text A Lawyer would connect a lawyer to a client and, at the same time, maintain that it is not recommending that lawyer or vouching for that lawyer's competence, especially when the client cannot see the ratings and has no choice but to rely on Text A Lawyer.

Is It A Recommendation? (continued)

- At the very least, the demonstration video creates a reasonable impression that Text A Lawyer is recommending the highest-rated lawyer, especially when the video does not contain a statement that Text A Lawyer is not recommending the lawyer.
- Moreover, the founder of Text A Lawyer seems to believe that the clients can rely on Text A Lawyer to help them navigate the overwhelming process of choosing the right lawyer. "[F]or somebody who maybe doesn't have an education past high school, that is just overwhelming to them. And most of the time, they have a court paper in their hands they don't understand. So Text A Lawyer removes the option—you don't pick a lawyer. You don't pick anything except a state and legal category."
Alternative Legal Service Providers Continue to Develop Innovative Platforms

- As Text A Lawyer illustrates, alternative legal service providers continue to develop innovative platforms.
- The business norms and sources of competition continue to change. While Text A Lawyer is preparing to launch, other platform "matching services" such as Court Buddy have been operating for years.
- Innovators assert that these "platforms are nothing more than a form of modern commerce in a digital world."

BUILDING THE LARGEST NETWORK OF THE TOP AFFORDABLE ATTORNEYS IN THE COUNTRY

A-La-Carte Legal Services at Flat Rates

GET MATCHED FOR FREE
Courtbuddy.com

- "Courtbuddy.com is a new and innovative way for people and businesses to get matched with attorneys who can appear in court for them or handle their other legal needs based on their budget. Our mission is to provide people with access to an attorney when needed, regardless of their financial status. The process is simple: (1) go to courtbuddy.com and choose either "I Am An Attorney" or "I Am Looking For Attorneys", (2) fill out a brief questionnaire, and (3) become a member and start getting matched. Pick your budget. Pick your attorney. Get matched today." Court Buddy's website also has the following disclaimer: "Court Buddy is not a lawyer, law firm, lawyer directory, or a lawyer referral service. Court Buddy does not endorse or recommend any particular lawyer. Lawyers are listed on Court Buddy for advertising purposes only."
https://www.courtbuddy.com

Lawyer Exchange

We help law firms grow and lawyers find work.

Law firms need reliable support and new attorneys need work. Lawyer Exchange solves these problems by bringing the two together online for legal project work.

Rethinking How Lawyers Practice Law... Together

Lawyer Exchange matches law firms seeking support with attorneys seeking work and membership. Created for lawyers, by lawyers, our platform is revolutionizing the way attorneys practice law today.
Lawyer Exchange

General Questions:

What is Lawyer Exchange?

Hide Answer

 Lawyer Exchange is an online platform that matches law firms seeking support with attorneys seeking work and mentorship. Law firms post specific legal projects, and lawyers looking for work submit proposals to complete the projects. The entire process is done online, from the initial post all the way to invoicing and payment. Created for lawyers, by lawyers, our platform is revolutionizing the way attorneys practice law today.

Is there quality control with lawyers using the platform?

Hide Answer

 We provide a rating system for both hiring and project lawyers to leave feedback once a project is complete. This provides peace of mind for both parties. We also give each user a personal profile with their degree information, in-depth questions/answers, work examples, verifications, and even personal references. We also allow you to upload documents such as resumes and work samples.

Lawyer Exchange

How does Lawyer Exchange work?

Hide Answer

 Whether you are looking for help or looking for work, Lawyer Exchange makes the process easy:

1- The Hiring Lawyer posts a legal project.

2- Project Lawyers will submit proposals.

3- The Hiring Lawyer reviews the proposals submitted by Project Lawyers, messages them if necessary, and then selects one to work with.

4- Once the project is complete, the Project Lawyer submits an invoice through Lawyer Exchange to the Hiring Lawyer.

5- The Hiring Lawyer pays the invoice (plus a 10% service fee) through Lawyer Exchange and the Project Lawyer receives their payment.
Hearing Attendance

It's like having an associate at every courthouse, everyday.

VortexLegal’s hearing attendance division provides attorneys nationwide who appear at hearings, mediations, depositions and other legal proceedings on behalf of corporate legal departments. Our attorneys attend the voluminous, time consuming, and not-so-substantive matters that cost your organization immeasurable amounts of time and hundreds of thousands, if not millions of dollars a year.

Our attorneys are experienced, vetted, and local, giving you the “home court advantage.” With VortexLegal you can reduce your legal spend. We charge flat rates, not hourly, and don’t charge for travel.

VortexLegal’s network of attorneys allow you to extend your reach without increasing your overhead! Keep your attorneys at the office working on substantive matters and working up the cases. VortexLegal’s services can cut the cost of routine court appearances by 20-30% or more across your portfolio of cases.

VortexLegal: Integrating the Legal Supply Chain

- “VortexLegal began back in 2010 as “MyMotionCalendar” and has since grown and evolved! We started off just providing attorneys to attend hearings for other lawyers, law firms and corporate legal departments. Today, we continue to offer that service as well as serving as the leading marketplace for legal services!”

- “We like to refer to ourselves as the “Expedia” for legal services! A community where you can search, qualify and hire a legal service provider. VortexLegal is the only marketplace for legal services that allows you to compare prices, search for specific skills or experience and hire for all services, from one portal!”
SCR 20:5.1 Responsibilities of Partners, Managers, and Supervisory Lawyers

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer’s violation of the Rules of Professional Conduct if:
   
   (1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or
   
   (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Layoffs, Associate Salaries and Software Robots

- According to a May 2017 edition of Crain’s Chicago Business, Seyfarth Shaw laid off 40 lawyers (including junior partners, some associates and senior attorneys) and an undetermined number of staff members.
- The firm criticized associate salary increases last year. The increase from $160,000 to $180,000 for new associates “will place additional pressure on firms to correct staffing levels,” the firm argued. Seyfarth initially resisted the raises, adopted by many BigLaw firms, but eventually implemented them.
- Seyfarth announced that it signed a licensing deal to use “software robots” to automate mundane tasks. The software robots had already been used to reduce part of the firm’s client onboarding process from 35 minutes to four minutes. The firm expects the software robots can be used to extract client data, and to analyze contracts and contract flows.
Practice with Robots: Using AI to Run a Firm

- Use AI to generate a logo for your law practice.
- Use AI to hire employees in your law practice.
- Use AI to be your personal assistant in your law practice.
- Use AI to perform due diligence to uncover background information. Included in this category is contract review, legal research, and electronic discovery.
- Use AI to generate results that predict litigation outcome.
- Use AI for legal analytics: lawyers can use data points from past case law, win/loss rates and a judge’s history to identify trends and patterns.
- Use AI to automate documents: law firms use software templates to create filled-out documents based on data input.
- Use AI to guide lawyers in analyzing large intellectual property portfolios and drawing insights from the content.
- Use AI to automatically compute lawyers’ billable hours.

SCR 20:5.3
Responsibilities Regarding Nonlawyer Assistance

With respect to a nonlawyer employed or retained by or associated with a lawyer:
(a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person’s conduct is compatible with the professional obligations of the lawyer;
(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person’s conduct is compatible with the professional obligations of the lawyer; and
(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
   (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
   (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.
ABA Comment [3] to SCR 20:5.3
Responsibilities Regarding Nonlawyer Assistance

- "A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services to the client.
- Examples include the retention of an investigative or paraprofessional service, hiring a document management company to create and maintain a database for complex litigation, sending client documents to a third party for printing or scanning, and using an Internet-based service to store client information.
- **When using such services outside the firm, a lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer's professional obligations.**
- The extent of this obligation will depend upon the circumstances, including the education, experience and reputation of the nonlawyer; the nature of the services involved; the terms of any arrangements concerning the protection of client information; and the legal and ethical environments of the jurisdictions in which the services will be performed, particularly with regard to confidentiality.

ABA Comment [3] to SCR 20:5.3
Responsibilities Regarding Nonlawyer Assistance

- See also Rules 1.1 (competence), 1.2 (allocation of authority), 1.4 (communication with client), 1.6 (confidentiality), 5.4(a) (professional independence of the lawyer), and 5.5(a) (unauthorized practice of law).
- When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer."
Uncommon IQ: A Fully-Automated Talent Marketplace

- In February 2018, Uncommon.co announced Uncommon IQ, the industry’s first qualification-based talent marketplace that connects job seekers, employers, and job sites in a fully-automated, transparent and objective way.
- Using a proprietary AI algorithm to analyze career paths, experience, skill level and job interest, Uncommon IQ gives recruiters on-demand access to applicants that meet or exceed every job requirement and are ready to be interviewed, eliminating the costly and manual inefficiencies of traditional sourcing.

Amazon Reportedly Killed an AI Recruitment System Because It Couldn’t Stop the Tool from Discriminating Against Women (October 2018)

- Amazon spent years working on a system for automating the recruitment process.
- The idea was for this AI-powered system to be able to look at a collection of resumes and name the top candidates. To achieve this, Amazon fed the system a decade's worth of resumes from people applying for jobs at Amazon. Because the tech industry is male-dominated, most of the resumes came from men, and the system began to favor men.
- Amazon's system “taught itself” to downgrage resumes with the word “women's” in them, and to assign lower scores to graduates of two women-only colleges. Meanwhile, it decided that words such as “executed” and “captured,” which are apparently deployed more often in the resumes of male engineers, suggested the candidate should be ranked more highly.
Do We Need a Private Right of Action Against Machine Bias?

- A number of local government agencies and courts around the U.S. are placing their trust in machines.
- Need help in determining health care program eligibility? There is an algorithm for that. But the algorithm used by the Idaho Department of Health and Welfare to determine Medicaid eligibility was accused of incorrectly kicking many locals off the state program.
- What about predicting the chances of inmate recidivism? Just enter some variables and press a button. The algorithm-based Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) recidivism tool was shown to be biased against African-American inmates.

Thank you!