
THE EVOLUTION OF THE LEGAL PROFESSION

A Conversation with the Legal Community's
Thought Leaders on the Front Lines of an
Industry in Transition

By Ari Kaplan, Principal of Ari Kaplan Advisors



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INTRODUCTION

Over the past 50 years the legal industry has experienced an unprecedented shift from a tightly knit profession into a global enterprise driven by the traditional business motivations of growth and profit. The current economic downturn has caused the industry to reexamine the way lawyers practice, law schools educate and clients relate to their counsel.

This report is the first in a series that combines insights from a cross-section of the legal community, ranging from the deans of law schools and prominent practitioners, to in-house counsel, law professors and other industry experts, to examine whether the profession is experiencing a short term blip or if it is in the middle of a paradigm shift that will materially change the way law is practiced.

HIGHLIGHTS FROM THE INTERVIEWS INCLUDE:

“The model and structure that law firms have been working on for 20-30 years was always a bad business model; however, it survived until now because there was so much commerce going on.”
–Lynn Mestel, *Mestel & Co.*

“The days of clients accepting the traditional model of billable hours and costs over which they have no control is over.” –Jay Shepherd, *Shepherd Law Group*

“GCs have been unhappy for sometime, they just haven’t had the bargaining power; the shift in the market has given them more bargaining power.”
–Professor Gillian Hadfield, *University of Southern California Law School*

“Lawyers need to stop thinking about what they do as separate from what their clients do.” –Patrick Lamb, *Valorem Law Group*

“It boils down to initiative and innovation.”
–Professor William Henderson, *Indiana University Maurer School of Law*

“We are seeing more women in the practice and at higher levels, as well as in the judiciary.” –Hon. Shira Scheindlin, *Southern District of New York*

“Lawyers who are successful by monetary standards are not successful because of their skills; they have to solve their client’s problem and create trust with them.” –Dean David Van Zandt, *Northwestern University School of Law*

“If you are going to prepare law students for the real world, there has to be more focus on actual practice and more integration on law and business.” –Richard Fields, *Juridica Capital Management (U.S.) Inc.*

“You must be entrepreneurial.” –James Blank, *Kaye Scholer LLP*

BACKGROUND

In the fall of 2009, large law firms across the country began offering new hires up to \$80,000 to defer their start date for one year. In addition, some offered student loan payments and health insurance as part of the package.¹ That move was not surprising given that the legal industry suffered an unprecedented contraction in 2009 with over 12,000 layoffs at 138 large law firms.² The surprise is that despite the elimination of 4,633 attorney positions, *The New York Times* reported on January 9, 2010 that “the recession and the resulting shortage of good jobs have spurred a jump in applications to law schools.”³

The enthusiasm for law school notwithstanding, the economy is forcing law firms to reevaluate the business model under which most institutions have been operating since their creation generations ago. Due to similar economic pressure, corporate clients are engaging in fewer strategic transactions and are forcing their lawyers to consider price reductions and alternative fee arrangements on those matters they are pursuing.⁴ This confluence of considerations is shifting the balance of power and forging a new model in the delivery of legal services.

For instance, in 2008, the 100 largest U.S. law firms by revenue earned approximately \$7 billion from alternative fee arrangements.⁵ The ABA Journal reported that Arent Fox, Akin Gump Strauss Hauer & Feld, and Skadden, Arps, Slate, Meagher & Flom were among the large firms that derived a portion of their revenue from unconventional billing.⁶ In 2010, Crowell & Moring’s chairman, Kent Gardiner, credited greater use of flexible fee arrangements with helping the firm develop additional business in 2009’s challenging market.⁷ “By relying more heavily on alternative billing arrangements than we ever have before, we were able to bring in a lot more work,” he said.⁸

In addition to being lower and non-traditionally charged, those fees are also the subjects of greater transparency. *The Wall Street Journal* reported in January of 2010 that clients of Foley & Lardner, for example, have web-based access to the amount of attorney time and costs incurred on a particular matter.⁹

To provide perspective on the changing face of the legal profession and to properly characterize the transformation of the practice to a business, DiscoverReady LLC and Ari Kaplan Advisors engaged the community in a conversation about the past, present and future of the law. The participants identified various causes of the change and offered a number of potential solutions.

THE PARTICIPANTS

The researcher contacted 30 individuals for their unique perspectives and to discuss issues related to changes in the legal profession in telephone interviews ranging from 25 to 45 minutes between November 18, 2009 and December 14, 2009.¹⁰

One is a United States District Judge, two are the general counsel of a Fortune 500 company, one is the general counsel of a company in bankruptcy, three are senior in-house counsel at Fortune 500 companies, five are partners at AmLaw 100 law firms, three are responsible for career services at ABA-accredited law schools, one is a second-year law student, three are law school deans, three are law professors, one is a consultant, two are chief executive officers, four are founders of successful small law firms and one is responsible for law school admissions. Twenty-two are male and eight are female.

Suzanna Adelizi, Director
Office of Career Services
Chapman University School of Law

Michael J. Callahan
Executive Vice President, General Counsel
& Secretary Yahoo! Inc.

Beth Anisman, Consultant
B&Co. (former Global Chief Administrative
Officer for Legal, Compliance and Audit of
Lehman Brothers)

Jeffrey W. Carr
Vice President, General Counsel and Secretary
FMC Technologies

James Blank, Partner
Kaye Scholer LLP

Ruth Carter, Law Student
Arizona State University O'Connor School of Law

David Boies, Partner
Boies, Schiller & Flexner LLP

Bruce Elvin
Associate Dean and Director
Career & Professional Development Center
Duke University School of Law

Larry Bortstein, Partner
Bortstein & Irvine LLC (former Global Head
of Technology Law at Lehman Brothers)

Richard Fields, CEO
Juridica Capital Management (U.S.) Inc.

PARTICIPANTS CONTINUED

Professor Gillian Hadfield

University of Southern California Law School

Michael Hausfeld, Partner

Hausfeld LLP

Professor William Henderson

Indiana University Maurer School of Law

Patrick Lamb, Founder

Valorem Law Group LLC

Dean Richard Matasar

New York Law School

C. Parkhill Mays, Jr., (founding) Partner

Holland & Knight LLP

Sean McSweeney

Senior Vice President & Deputy General Counsel

Liberty Mutual Group, Inc.

Lynn Mestel, Founder

Mestel & Co.

Vincent Miraglia

Chief Counsel for Employment Litigation &

Electronic Discovery International Paper Company

Robert Owen, Partner

Fulbright & Jaworski

Charles Roboski

Assistant Dean of Admissions and Financial Aid

Michigan State University College of Law

Hon. Shira A. Scheindlin

U.S. District Court for the Southern

District of New York

Jay Shepherd, Founder

Shepherd Law Group

John Snellings, Partner

Nixon Peabody LLP

Martha Solinger

Co-General Counsel

Lehman Brothers Holdings

Dean David Van Zandt

Northwestern University School of Law

Frank Vecella

Associate General Counsel – Litigation

Ericsson Inc.

Mark Weber

Assistant Dean for Career Services

Harvard Law School

Dean Patricia White

University of Miami School of Law

David B. Wilkins

Professor of Law & Director of the Program

on the Legal Profession

Harvard Law School

OVERVIEW OF FINDINGS

- 13 of the 15 active practitioners interviewed use alternative billing, including fixed fee arrangements. Over 75% had heard of instances where a corporate client will not pay for first-year work done on their cases.
- 92% feel that client expectations have changed.
- 62% agreed that the accelerated growth in law firms and the rise in legal fees led in whole or in part to the current state of the market.
- 70% agreed that while the economy has always had an impact on the practice of law, the current shift is different. 74% believe the shift will be permanent.

THE FUTURE OF THE PROFESSION IS SECURE

While there are many issues about which practitioners should be concerned, the respondents were generally optimistic about the future of the profession.

Renowned trial lawyer David Boies, founder of Boies, Schiller & Flexner, for example, has four children that graduated from law school (three of whom are still practicing). “I do believe that law continues to be a great profession because it offers an opportunity to do things that are challenging and also to do good for society,” he said.

Harvard Law School professor David Wilkins noted that the American Bar Foundation and the NALP Foundation for Law Career Research and Education jointly published a study in which over 70% of lawyers reported being moderately or very satisfied with their career decision.¹¹ “Satisfaction is a blunt instrument, but the portrait of widespread misery is wildly exaggerated,” said Wilkins, who is the Director of Harvard’s Program on the Legal Profession.

HOW HAS THE LEGAL PROFESSION EVOLVED?

The concept of evolution summons images of glacial transformations over long periods of time. Ironically, it is speed that has impacted the modern legal epoch of the past generation. A substantial number of the respondents noted that technology and the increased pace it enabled over the past two decades dramatically changed the field forever. The tempo of legal practice has directly affected collegiality, client service, training, loyalty, longevity and growth.

“Today, communication is instantaneous, which requires people to respond more quickly and the pace is much more accelerated,” noted Boies. “The requirement to make an immediate decision and multi-task is at a whole new level,” added Anisman.

The legal profession was once a very local profession, recalled Lynn Mestel, founder of both Mestel & Co. and Hire Counsel. “It was very difficult 22 years ago for a New York firm to open a Washington, DC office and monitor that office,” she said. “Today, it does not matter where you are sitting, which enables all law firms to expand nationally, if not globally,” added Mestel, who assisted in the mergers of Dewey & LeBoeuf, Katten Muchin Rosenman LLP, O’Sullivan, and others.

CULTURE

Due to the faster pace and business-oriented nature, the collegiality amongst attorneys has unintentionally dissipated, reported Sean McSweeney, Senior Vice President & Deputy General Counsel for Liberty Mutual Group, Inc., who emphasized that accessibility through remote technology has impacted work-life balance. Northwestern University School of Law Dean Van Zandt was more direct: “I think most people would say today that becoming a partner is almost like a curse because everything is much more bottom line.”

That bottom line has increased lawyer mobility for two reasons.

First, Kaye Scholer partner James Blank noted, “all firms are looking at profits per partner, whereas it used to be more of a partnership made up of individuals who were more loyal to their institution.” And, said Boies, “the emphasis on compensation also motivates people to leave firms when they see better chances elsewhere.”

Second, from the general counsel's perspective, Michael Callahan, Executive Vice President, General Counsel & Secretary for Yahoo! Inc., indicated, "law firms have to adjust their practices to the reality that clients are no longer definitely tied to a firm, but rather to the lawyers they have come to trust and rely on."

In addition, there are fewer opportunities to spend time with experienced lawyers and osmotically learn from them, said Martha Solinger, Co-General Counsel for Lehman Brothers Holdings, highlighting that law firms were once richer teaching environments. "The training system is different because the pressure on lawyers to get clients and bill time has ratcheted up."

Also, as the salaries of young lawyers rose, the pressure to obtain immediate value from students increased, noted University of Miami Law School Dean Patricia White. "The life of the young associate changed and the number of hours required went up," she added.

To reinvigorate a culture of loyalty and longevity, "it is also important that we return to the roots of the practice of law as a calling and as a profession in which people are devoted to their clients, their clients' interests and are respectful of the law," recommended Boies.

VALUE & EFFICIENCY

Returning to the roots of the practice will require a renewed focus on value and alignment of interests. "In some ways, we have a business that is masquerading as a profession," said Jeffrey Carr, Vice President, General Counsel and Secretary for FMC Technologies.

Indiana University Maurer School of Law Professor Bill Henderson explained that since 2001, there has been a continuous demand for corporate legal services with the legal industry growing at a faster pace than the population. That demand for corporate legal services and the increase in transnational

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transactions allowed law schools and law firms to grow, but he said the big growth spurt has passed. "Legal spend is just another cost and GCs are pitting firms against one another to drive the cost of legal services down."

It is much more business oriented, noted Carr, named a 'Legal Rebel' by the ABA Journal in 2009, who commented that clients are focused today on the worth of legal services as opposed to litigating on principle, with more sensitivity to value and fungibility. "Today the price of admission to do work is no longer quality – that is presumed – it is much more about – can you give value to me as opposed to are you a great lawyer?"


Despite that critical consideration, Anisman said that law firms and corporations are still not focusing enough attention on creating efficiencies in internal processes, or sharing information and best practices across departments, offices and regions. This is critical given that “innovations have commoditized legal work and made online products for things that would be routinely drafted from scratch,” said Mestel.

Ultimately, “in most transactions, the client really does not want the perfect job,” said Van Zandt. “The lawyer has to understand how to provide real value as opposed to a perfect job,” he added.

“You just don’t need the bodies and man hours to get answers any more,” said Blank. “E-Discovery tools have eliminated the need to have junior associates review boxes of documents.”

That interest in problem solving and value is a trend that is recharacterizing legal services and the longevity of one’s career in the law. Given the financial pressure, “firms can be less tolerant of a lack of productivity,” said Boies, noting that while firms used to be very slow to dismiss partners, there is now a greater incentive to weed people out for underperformance.

HAVE YOU HEARD OF INSTANCES WHERE A CORPORATE CLIENT WILL NOT PAY FOR FIRST YEAR WORK DONE ON THEIR CASES?

YES		23	85%
NO		4	15%
TOTAL		27	100%

Also, “you just don’t need the bodies and man hours to get answers any more,” said Blank. “E-Discovery tools have eliminated the need to have junior associates review boxes of documents, which is why you are seeing thousands junior associates laid off,” he added, highlighting that clients are no longer willing

to pay for junior associates to review documents that technology can evaluate with equal success.


“You will see a lot more firms and companies using outsourcing companies to do work more efficiently.”

In fact, 85% of the respondents had heard of instances where a corporate client would not pay for first year work on their projects. Part of

the reason for that accord is the acceptance that outsourcing is a positive trend and helps to create value. “You will see a lot more firms and companies using outsourcing companies to do work more efficiently,” predicted Van Zandt. “Having a big firm associate do it is less efficient than having an organized outsourcing firm do it,” he added.

CLIENT EXPECTATIONS

HAVE CLIENT EXPECTATIONS CHANGED?

YES		23	92%
NO		2	8%
TOTAL		25	100%

The law was once viewed as a secret science, like monkhood or mysticism, shrouded by secrecy and uncertainty, recalled Carr. There is increasing acceptance that the law is a competitive business similar to other professional services, e.g., finance and engineering. In-house attorneys are in a position of control and some bring suspicion to the relationship, he said cautioning that some in-house attorneys believe that their outside lawyers are charging too much, inflating their bills or failing to explain all of the known potential disadvantages.

In fact, efficiency is increasingly prized alongside skill and success. “Clients have an expectation that their attorneys proactively will look for ways to be efficient and offer those options in terms of day-to-day workflow,” said Blank, noting that some want the lawyer pitching for a matter to be ready to propose alternative billing or fee arrangements without needing to be asked.

According to Henderson, in the mid-1970s, it was not as common for corporate clients to have large in-house legal offices, which currently resemble full-scale law firms. Today, “many people have gone in-house to get closer to the business action, so you have a client base that is more experienced and educated and naturally will expect more out of their firms,” said Callahan. After all, companies are measured by output, quality, price and value. In-house lawyers expect that of their outside providers as well.



“Clients have an expectation that their attorneys proactively will look for ways to be efficient and offer those options in terms of day-to-day workflow.”

Frank Vecella, Associate General Counsel for Litigation at Ericsson Inc., views his relationship with outside counsel as a partnership, but highlighted that “many in-house attorneys probably focus more on the cost component than the quality of the representation, which is unfortunate.” Solinger noted that modern practice requires a combination of skill, service and substance. “I want the best judgment provided efficiently, creative lawyering and responsiveness.” She attributes this movement to the fact that there are more clients setting those same expectations at the same time.

Ultimately, the expectation is that “clients are not going to incur willingly the same billing practices as in the past,” said Michael Hausfeld, the acclaimed founder of Hausfeld LLP. “They also want to understand what can be resolved when, as opposed to engaging in protracted litigation,” he added.

ALTERNATIVE BILLING

DO YOU USE ALTERNATIVE BILLING?

YES		13	85%
NO		2	15%
		TOTAL	15 100%

Closely tied to the tandem issues of efficiency and client expectations is the concern about billing. According to Fulbright & Jaworski's 6th Annual *Litigation Trends Report* published in 2009, 48% of the 408 predominantly U.S.-based and U.K.-based in-house lawyers surveyed use alternative fee arrangements.¹² 40% of those organizations estimated that 10-25% of their outside counsel fees could be attributed to alternative fees.¹³ And, half of those organizations use fixed fees.¹⁴

Similar to the findings in the Fulbright report, an overwhelming number of respondents actively engaged in practice operate under some type of alternative billing arrangement with at least one client. The reaction, however, was more mixed than the statistics reveal, both from the perspective of in-house and outside lawyers. And, the death of the billable hour seems to have been exaggerated.

"The days of clients accepting the traditional model of billable hours and costs over which they have no control is over," Shepherd Law Group founder Jay Shepherd said, highlighting that client service will continue to improve as alternative fee structures develop. He admitted, however, that the billable hour still reigns supreme.

Carr uses a well-regarded performance-based system that provides outside law firms with an incentive to resolve a matter efficiently using targets and multipliers. The company and the firm agree at the outset on a billing system,

which could be hourly, fixed fee, project-based or retainer driven. The company pays 80 cents on the dollar and holds back 20. At end of engagement – or matter – the company provides the firm with a "report card," which details its performance in six areas. If it earns a 3.0, it receives 100% of the holdback and if it gets a 1.0, it can expect none of the holdback. Firms that perform at an exceptional level rating a 5.0 receive their 20%, plus an additional 20%. Last year, Carr paid on average 107% of most law firm invoices.



"The days of clients accepting the traditional model of billable hours and costs over which they have no control is over."

"It is about delivering exceptional service in a cost effective manner," said Larry Bortstein, the former Global Head of Technology Law at Lehman Brothers and founder of Bortstein & Irvine. A few respondents noted, however, that while corporations are demanding alternative billing plans, the capital structures of law firms are not designed to deal with that demand.

BLENDING RATES ARE LESS ATTRACTIVE

Fixed fees and blended rates are particularly popular in law firms; however, “in doing the math, the blended rate doesn’t seem to be something good for the client because it always seems to come out to more than it otherwise should be,” Blank said. Vecella also noted that his team experimented with blended rates on one matter, but he realized that junior attorneys for whom the blended rate was the normal rate were doing most of the work, which was actually a disadvantage. McSweeney’s team uses volume discounts, graduated (tiered) volume discounts and contingency fees in plaintiff matters.

DO YOU USE FIXED FEE BILLING?

YES		11	85%
NO		2	15%
		TOTAL	13 100%



Despite the popularity of creative billing arrangements, “it is a very hard thing to structure,” said Solinger. C. Parkhill Mays, Jr., a partner with Holland & Knight, concurred. “Most clients insist on alternative billing, but I don’t see those arrangements as being very successful since lawyers are trying to maximize revenue and clients are trying to fix them,” said Mays, who was an attorney with Holland, Bevis, Smith & Kobler before it merged in 1968 to form Holland & Knight.

Callahan echoes that difficulty from an in-house perspective. “It is not the majority of what we do and a lot of projects don’t lend themselves to it,” he said. He has generally used alternative fee structures on projects where they don’t have the in-house expertise, as well as for appeals and certain matters where the company consistently returns to a firm for similar advice.

Ultimately, the trend is moving toward lawyers assuming more of the risk. “Our view is that we need to have ‘skin in the game’ so that we do better economically than if we fail at meeting certain objectives, and we are paid for results regardless of how much time is spent,” said Patrick Lamb, ABA Legal Rebel and founder of the Valorem Law Group. “When you have some scale in the market, you can negotiate relationships that work for you,” added Callahan.



THE ECONOMY

DID THE ACCELERATED GROWTH AND RISE IN LEGAL FEES LEAD TO THE CURRENT STATE OF THE MARKET?

YES		16	62%
NO		10	38%
		TOTAL	26 100%

Despite the fact that 62% of the participants agreed that the accelerated growth and rise in legal fees caused, at least in part, the current legal market contraction, this was a strongly debated issue. “The legal fees are a symptom not a cause; it is the regulatory structure, who becomes a lawyer, and how we train them,” said University of Southern California law professor Gillian Hadfield. Judge Scheindlin added that “the state of the market is a function of the economy in a larger sense; in part, it has no effect, but, in part, [billing] rates were crazy.”

THE ECONOMY HAS ALWAYS HAD AN EFFECT ON THE PRACTICE OF LAW. IS THE CURRENT SHIFT DIFFERENT?

YES		19	70%
NO		8	30%
		TOTAL	27 100%

From a practical standpoint, “there is a lot more going on there aside from the economy,” said McSweeney. “Bodily injury initiatives, tort reform, and safer cars have reduced case counts, which has been a trend for several years,” he added.

Most agreed that the cause stems from a combination of complex factors that include the state of the legal industry prior to the collapse of the global economy and 70% highlighted that the current shift is different. “We are here because of the economic downturn, so law firms are responding and sometimes the change is going to require downsizing, rate reductions and lower salaries,” said Mark Weber, Assistant Dean for Career Services at Harvard Law School.

“The state of the market is a function of the economy in a larger sense; in part, it has no effect, but, in part, [billing] rates were crazy.”

SOLUTIONS

DE-EMPHASIZE BILLABLE HOURS

Tracking your time and billing by the hour gets in the way of improving the work-life balance of lawyers, noted Shepherd. “You have to treat lawyers like the knowledge workers that they are,” he said. “Knowledge workers don’t track their work on a timesheet,” he added.

In order to maximize their value, lawyers need to focus on prior work product and experience as opposed to solely billing hours. This will, however, only happen when we focus on changing the compensation system, says Carr. “We have gone past the tipping point. It is an industry in change and that genie can’t be put back in the bottle right now,” he concluded.

“You have to treat lawyers like the knowledge workers that they are.”

Anisman described the billing method as an ‘anti-efficiency measure’ because “the hourly billing rate system breeds its own incentives for people to be inefficient.”

The problem is institutional. Law firms need to restructure themselves in ways that will in the end benefit everyone with less leverage, more attention to outcome and less focus on time spent,” said Robert Owen, a partner with Fulbright & Jaworski and the head of the firm’s litigation group in New York, who would like to see a return to value billing. “Billable hours are a loose way of measuring value,” said Owen, who is part of the core team that conceived of and has administered Fulbright’s Annual Litigation Trends Survey since its inception in 2004.

RESTRUCTURE & DEREGULATE

White predicted that there will be many different models for delivering legal services. The Legal Services Act, for example, is going to revolutionize the practice of law in the United Kingdom, she said.

In addition, massive deregulation is necessary, noted Hadfield, highlighting that since the system is regulated and structured by lawyers, there are constraints on who can invest in law firms, who can own a law firm, who can partner with lawyers and where one can provide legal services. “Geographical balkanization across state lines, where only bar-trained individuals with a JD locally licensed can practice cuts off tremendous levels of innovation,” she said. “We need to add more innovation and fewer restrictions on solving legal problems.”

Henderson suggested implementing long-term time horizons with an investment in research and development. He too encourages collaboration with non-lawyers, including IT and business professionals. “Diverse team-based approaches produce innovation,” he said.

Innovating while lifting those restrictions could lead to new educational designations, said Wilkins. “There are lots of proposals on the table for new kinds of degrees that combine law, business, competitive strategy, and public policy in ways that fit the way legal problems are occurring,” he added.

“Diverse team-based approaches produce innovation.”

PREPARE STUDENTS FOR THE BUSINESS OF LEGAL PRACTICE

Juridica Capital Management’s CEO, Richard Fields, urged law schools to prepare young lawyers for the business of law and there was agreement such a shift would occur. “There is no room for the law teaching profession to be unresponsive both for students at top of class and even more true in smaller firm practice where clients cannot afford to have a lawyer learn on the job,” said New York Law School Dean Richard Matasar, recognizing that students need more practical experience to meet upgraded expectations in the current environment. “We have to conceive of an accelerated service model as one for the benefit of the student,” he added.

Mestel similarly noted the importance of providing law students with a fundamental education in areas that are related to the practice of law, but are not necessarily required for a law degree. “There has always been a certain tension between law schools that adhere to the Socratic method and those that are teaching practical law,” she said. “I believe that every law student today should get a small course in management, how to work in teams, how to build a business, including guidance on business planning, setting objectives and strategies and how to market your law firm and your skills,” she added.



“Lawyers just do not understand how business works and law schools are not doing a great job of closing that gap.”

The respondents consistently described a profession in which new lawyers are unfamiliar with how the business side of legal practice operates. Calling it a ‘DNA gap,’ Hadfield noted “there are a greater variety of courses being offered now, but the vast majority of what we teach in law school is done on the same model of what was taught in 1870. Lawyers just do not understand how business works and law schools are not doing a great job of closing that gap.”

Once the new needs of the profession are met, it will positively impact client service, efficiency and an entire generation of practitioners. “I am hopeful that the economic pressure that the profession is feeling now will be a catalyst for positive change and will make a real difference in the way law serves society,” Fields added.

THE NEXT STEP IN THE EVOLUTION

WILL THE CHANGE(S) BE PERMANENT?

YES		20	74%
NO		7	26%
TOTAL		27	100%

Whether they have benefited the legal profession or not, 74% of the participants agreed that the changes will be permanent. Actually, “it is quite likely that we will look back on this period as one of less dramatic change than the period that is coming,” said Wilkins. “Many of the restrictions on the practice, like lawyer-only ownership, are likely to change,” he added, suggesting the prospect of publicly-traded law firms as in the U.K. and Australia.

With respect to the transformation of the industry, Bortstein said, “it is more expensive to tear down the Empire State Building and build a new one than to just build a new one.” Given the difficulty of large established institutions to reorganize quickly, he predicts the growth of alternative providers

“It is quite likely that we will look back on this period as one of less dramatic change than the period that is coming.”

and the rise of legal process outsourcing. Miraglia expects these organizations and traditional law firms to compete in a new paradigm. “Law firms will have to learn that in order to keep business, they will have to think of new ways of providing it,” noted Miraglia.

That said, “the nature of law practice is varied and most firms do not have the same problems,” highlighted Bruce Elvin, Associate Dean and Director of the Career & Professional Development Center at Duke University School of Law. “I don’t think that all firms would agree that there is a problem or would agree that the answer is the same,” he added advising that the relationship is still about helping clients solve their problems, achieve their goals and meet their needs. Since it is a business about trusted associations, “to the extent that clients and their outside lawyers can communicate better or have stronger personal relationships, that would probably enhance all elements of the practice,” he said.

While many believe that some of the changes will have a lasting impact, the extent of that permanence was questionable. “When times are tough, everyone has to tighten their belt, but as soon as the economy picks up again, many people will tend to go back to their old habits,” said Vecella. “It will be temporary like real estate,” predicted Solinger. “There will be retrenchment, then slow growth, and then it will get better” she added noting that this is not going to change the world for all time.

ENDNOTES

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- 13 *Id.*
- 14 *Id.*

ABOUT ARI KAPLAN

Ari Kaplan is the author of the Amazon.com bestseller “The Opportunity Maker: Strategies for Inspiring Your Legal Career Through Creative Networking and Business Development” (Thomson-West, 2008), which the *New York Law Journal* called “a must-have treasure box of marketing ideas.” He practiced law with large firms in New York City for nearly nine years and has been recognized in *The Wall Street Journal Law Blog*, the *Houston Chronicle*, the *Miami Herald*, the *New York Post*, the *ABA Journal*, *Above the Law*, the *National Jurist*, the *Chicago Lawyer*, the *California Recorder*, and other publications.

As the principal of Ari Kaplan Advisors, he addresses professionals internationally about self-marketing, business development, getting published and dynamic networking. He has published over 200 articles, served as a legal commentator for CNET Radio and has been interviewed on CNN. He received Apex Awards in 2007 and 2008 for feature writing and was named a “Law Star” by LawCrossing.

He has spoken at law firms, law schools and bar associations nationwide, including as a keynote speaker at the National Association of Law Placement’s Professional Development Institute, the Louisiana State Bar Association’s Solo & Small Firm Conference, and the International Litigation Support Leaders Conference, among others. He is the keynote speaker for the 2010 ABA Tech Show.

Kaplan serves as a law-related ghostwriter for a number of companies, firms and individuals in the legal industry preparing their white papers, client alerts, and customer research. He holds the number one Google ranking for ‘legal technology ghostwriter’.

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