

# ACCESS TO JUSTICE CHAMPIONS

THE WSBA LOW BONO SECTION'S NEWSLETTER



"Academy Class 2005-552" by U.S. Marshals Service licensed under CC BY 2.0

## BLUE OCEAN CREATION

I have suggested in other articles that the answer to closing the justice gap may lie in the creation of a blue ocean in the legal marketplace. It appears the disparity between those who can afford legal services and those who are forced to represent themselves presents an extraordinary business opportunity for anyone innovative enough to take advantage of this previously untapped market space.

PAGE 2

## LEGAL TRENDS FOR LAW FIRMS IN 2022

If 2020-2021 taught us anything, it is to expect the unexpected. The digital legal revolution we have experienced was welcomed by many, although not without some trepidation. As we close another quarter while still subject to pandemic mandates, it is worth looking at trends affecting the legal field and discussing how low bono and small firms can maximize the benefits of this digital revolution.

PAGE 4

## EDITOR'S NOTE

Articles and authors needed! If you have an idea for an article, or feel like writing one yourself, please get in touch.

PAGE 5

## USING SLIDING SCALES IN YOUR PRACTICE

**Part 2: Yes, you can increase revenues by charging less!** High prices do not necessarily equate to higher profits. In fact, high prices often encourage consumers to simply go without a particular product or service, and legal services are no exception.

PAGE 6

## UPCOMING EVENTS

See what's happening next.

PAGE 7



**Low Bono  
Section**

This is a publication of a section of the Washington State Bar Association. All opinions and comments in this publication represent the views of the authors and do not necessarily have the endorsement of the Association or its officers or agents.

# BLUE OCEAN CREATION

BY MARYA NOYES, LLLT, MBA

I have suggested in other articles that the answer to closing the justice gap may lie in the creation of a blue ocean in the legal marketplace. It appears the disparity between those who can afford legal services and those who are forced to represent themselves presents an extraordinary business opportunity for anyone innovative enough to take advantage of this previously untapped market space.

In this article I hope to focus a little on how a company might attempt this innovation process while simultaneously minimizing the business risk.

of the authors' study of hundreds of companies spanning over 100 years in 30 different industries. In their review, Kim and Mauborgne determined that long-lasting business success came from something they described as the "strategic move" which created blue oceans of untapped market space.

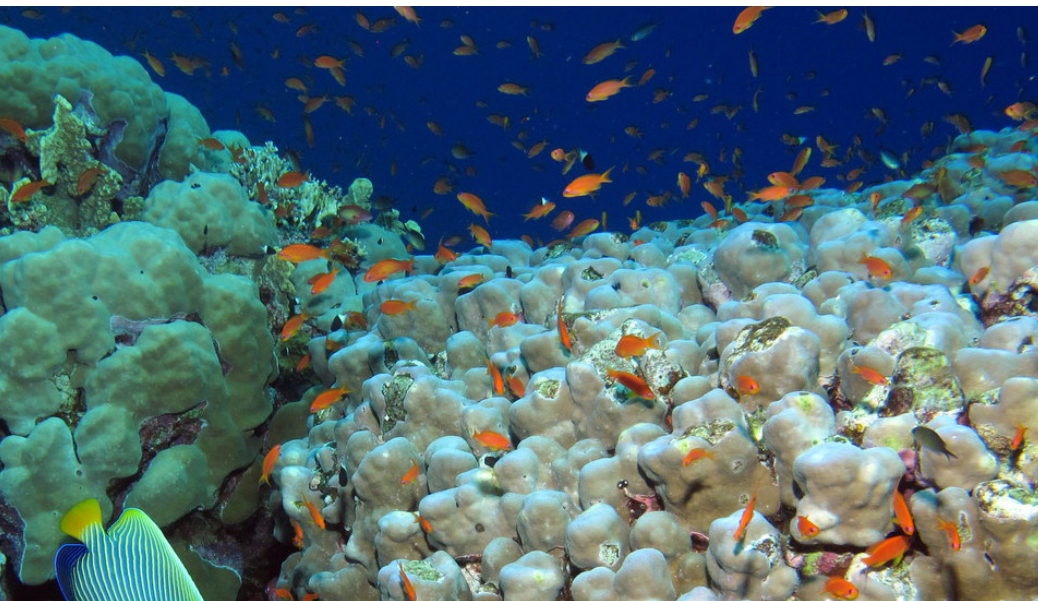
A mature marketplace is often characterized by supply outpacing demand, increased commoditization, and reduced profit margins. Any client obtained by one business comes directly from the business of the competition, and consequently the ocean of the

study of 108 companies, Kim and Mauborgne found that only 14 percent of business launches were aimed at creating blue oceans, yet those launches accounted for 38 percent of the total revenue and 61 percent of the total profits.<sup>1</sup>

Wowza! Right? Those numbers sound promising. If blue ocean creation is so profitable, then it begs the question—why aren't all companies jumping on the blue ocean creation bandwagon? Well, as I am sure I don't have to explain, innovation does not always equate to usefulness or profitability.

Further, there is a general belief the odds of success lower dramatically when companies venture beyond their field of expertise. We have all seen companies venture into areas they have no business exploring. For example, do you remember Cheeto Lip Balm, Colgate frozen meals, or Coors Rocky Mountain Sparkling Water? No? It may be because all those products were considered monumental failures.

With the incredible upside potential of blue ocean creation, how does a company make sure they are developing the next Cirque de Soleil and not the next big flop? As stated in their book, effective blue ocean strategy should be about risk minimization, not risk taking. While there is no such thing as riskless strategy in business, Kim and Mauborgne were able to identify some principles and frameworks to succeed in the creation of blue oceans.



"Emperor angelfish, goldies, corals and blue ocean at Elphinstone Reef, Red Sea, Egypt #SCUBA" by Derek Keats is licensed under CC BY 2.0

Let me remind you of the definition of blue ocean in case the COVID-19 haze has somehow wiped it from your mind. The term "Blue Ocean strategy" was developed by authors W. Chan Kim and Renee Mauborgne in their book *Blue Ocean Strategy*. This book was the culmination

marketplace is painted red from the bleeding this sort of competition inherently implies.

Conversely, in a blue ocean, business competition is irrelevant because it does not exist. Blue oceans symbolize all the industries not yet in existence today. In their

## BLUE OCEAN CREATION - continued

They begin by reporting that the difference between winners and losers in blue ocean creation lay in what they referred to as value innovation. Instead of focusing on beating the competition in the red ocean, successful companies focused on the creation of a leap in value for buyers, which in turn opened new and uncontested marketplaces.

Value innovation also defies the value-cost tradeoff of the competition-based business model. Specifically, that companies can create higher value for the consumer at a higher cost, or they can create a reasonable value for the consumer at a lower cost. In contrast, those that seek to create blue oceans simultaneously pursue product differentiation and low cost. Easier said than done, right? The authors suggest that companies may begin this process by reorienting their focus from competitors to alternatives, and from customers to noncustomers of an industry.

As the company's focus shifts, the business gains new insight into how to redefine the "problem" the entire industry is attempting to solve. This process inevitably redefines the general understanding of what the buyer values. To assist in this process, Kim and Mauborgne developed the Four Actions Framework consisting of the following four questions:

1. Which of the factors the industry takes for granted should be eliminated?



"File:Symbol kept vote Green.svg" by Zorclub is licensed under CC BY-SA 3.0



"File:Symbol delete vote Red.svg" by Zorclub is licensed under CC BY-SA 3.0

2. Which factors should be reduced well below the industry's standard?
3. Which factors should be raised well above the industry's standard?
4. Which factors should be created the industry has never offered?

The first two questions help the business gain insight into how to drop their cost structure. The second two questions provide insight into how a business can lift buyer value and create new demand. If a business is going to reach a new customer base, it is imperative the company first

redefine its strategy to solving the generally accepted consumer problem. I suppose that statement falls a little into the "no duh" category.

Clearly, if the existing business model were sufficient to reach the new market space, a new strategy wouldn't be necessary. However, as obvious as this statement seems, the legal industry does not seem to have gotten the memo in our efforts to close the justice gap. The vast majority of legal service providers are duplicating the business practices of their predecessors with the hope of providing a different result.

As monumental as the task of changing the existing business model may appear, the enormous size of the justice gap presents an amazing opportunity to any business innovative enough undertake the process of creating a blue ocean strategy.

<sup>1</sup> Kim, W. C., & Mauborgne R. (2005). *Blue Ocean Strategy. How to Create Uncontested Marketplace and Make the Competition Irrelevant.* (p. 7). Boston, MS: Harvard Business School Press.



Marya Noyes is a LLLT practicing family law at Genesis Law Firm in Everett. She was licensed as a LLLT in 2017, and earned her MBA at Seattle University in 2019. Marya regularly writes articles on economic analysis and market opportunities presented by addressing the justice gap.

# TECHNOLOGY TRENDS FOR LAW FIRMS IN 2022

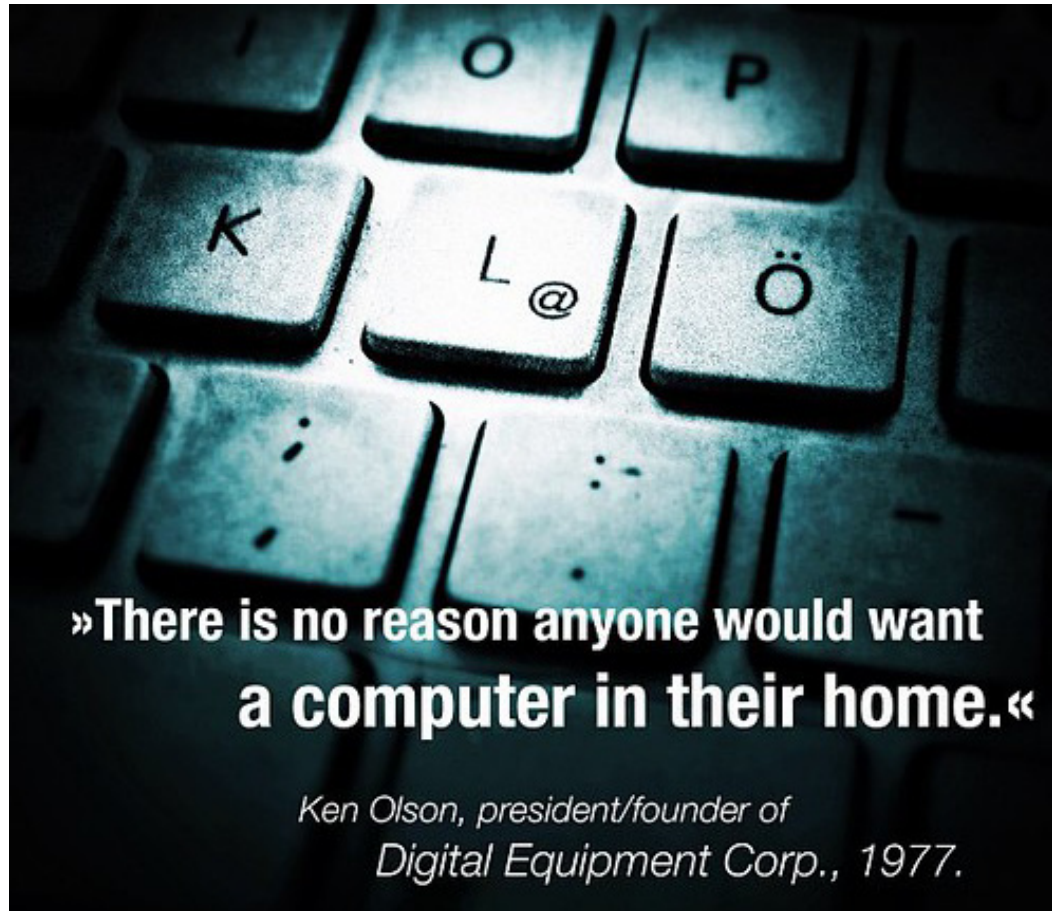
BY LESLI ASHLEY, LLLT

If 2020-2021 taught us anything, it is to expect the unexpected. The digital legal revolution we have experienced was welcomed by many, although not necessarily without some trepidation. As we close another quarter while still subject to pandemic mandates, it is worth looking at trends affecting the legal field and discussing how low bono and small firms can maximize the benefits of this digital revolution.

Over the past year, consumer expectations shifted with regards to technology and services, many of which they expect to be able to receive at least semi-remotely. This impacts most professional service areas going forward, and legal services are no exception. Below are five trends expected to have strong and long-lasting impacts on law firms. Each trend reflects an increased reliance—by both consumers and legal service providers—on digital methods to deliver better legal services. Law firms may benefit by an increase in efficiency and revenue through adapting their practices along these lines as well.

**1. Increased consumer digital behavior.** Consumers adapted to digital services at an accelerated pace. Consumers of all services, including legal services, expected to receive comparable services during quarantine periods of the pandemic as when there were no restrictions.

Those businesses which embrace digital innovations are best suited



»There is no reason anyone would want a computer in their home.« Ken Olson, president/founder of Digital Equipment Corp., 1977." by LoboStudio Hamburg is licensed under CC BY-SA 2.0

to thrive, although such evolution requires a willingness to try new software and new ways of working cases.

The digital revolution includes a need to update marketing and advertising strategies. Make sure your information online is up to date and accurate, so clients are able to find you. Ensure you are advertising in the channels best suited to your practice area to attract the right clients.

**2. Court and government agency digital interfaces.** Numerous government agencies and court

systems have been forced to utilize digital services. This decidedly bumpy transition was challenging, as many existing systems were not designed to handle the explosion of new needs caused by the pandemic.

There have been many reports of computer system hacking over the last few years. Legal trend analysts predict that as more courts dive into online worlds, vendors with available products will increase, which will need to be secure. New technology must be developed to handle situations previously unanticipated—the use of online notarization is a good example.

## TECHNOLOGY TRENDS FOR LAW FIRMS IN 2022 - continued

A potential conflict may be brewing between access to technology and public records and privacy concerns of consumers and constituents. This conflict will not slow the tide of technology, however, and trends predict the utilization of technology will only increase.

### 3. Mobile equipment availability.

As we know, many people were forced to immediately adapt to working from home using the resources available at the time. Over the last year, products have been developed to make working from home run more seamlessly. The year 2022 offers the opportunity to revisit the tools you are using and evaluate the needs of your firm to determine if your needs are being adequately met.

Many new programs have been created as remote legal needs become more widespread. Additionally, many vendors also offer free or low-cost continuing education opportunities, which is a great and affordable way to receive credits and learn new skills and information.

**4. Modernized communication methods.** Many phone systems were outdated and unable to transition to a work-from-home environment. Law firms modernized their office phone systems using VOIP technology, which allowed workforces to continue to communicate with each other and clients from any location. Trends indicate law firms continue to look for additional communication

systems, including cloud-based systems, which allow firm members to work on documents anywhere they have an internet connection and a computer. Additionally, law firm use of client portals is increasing as firms recognize the benefits of a secured portal for the firm and its clients.



*Lesli Ashley is a licensed LLLT and registered paralegal with Empower Family Law LLLT. She has worked in civil litigation for over twenty-five years, is an ACEDS certified e-discovery specialist, and currently volunteers each week with Spokane County VLP. Lesli also serves the WSBA by volunteering with the Practice of Law Board, Court Rules Committee, and Low Bono Section.*



"business man adding server to network" by msarturlr is licensed under CC BY-NC-SA 2.0

## EDITOR'S NOTE

**BY JENNIFER ORTEGA,  
EDITOR, LLLT**

What a year it's been! As we begin our third year publishing this newsletter, it's fun to look back at the wide variety of topics addressed.

I am always on the lookout for articles and contributing authors. If you have a suggestion for an article or topic, or have a burning desire to write an article yourself, get in touch and I will be happy to discuss with you. Email me at [Jennifer@LTDivision.com](mailto:Jennifer@LTDivision.com)!

# USING SLIDING SCALES IN YOUR PRACTICE

BY SARAH BOVE, LLLT & JENNIFER ORTEGA, LLLT

## Part 2: Expand your customer base

High prices do not necessarily equate to higher profits. In fact, high prices often encourage consumers to simply go without a particular product or service, and legal services are no exception.

While we think of sliding fee scales primarily in relation to health care, sliding fee scales are in use all around us. A city or county may charge less-affluent residents a lower price for parks and recreation access, while a nonprofit or government agency may provide child care at a reduced cost. Many schools offer sliding scale tuition and/or lunch pricing, and some adoption agencies price their services on a sliding scale.

Consider the U.S. pharmaceutical industry, which offers sliding scale pricing, often through negotiated pricing with health insurance providers. This is a highly complex industry and by no means is this article a comprehensive review of drug pricing. In simple terms, however, by offering lower prices for the same drug to people who cannot afford to pay the full price, the pharmaceutical industry increases its total sales volume. Increased income generation allows a company to fund research and development activities to create new drugs, and improve existing drugs and manufacturing methods.

Law firms need paying clients to survive. And to thrive, most law



"Slide Rule" by The Last Cookie is licensed under CC BY 2.0

firms need to focus on providing quality services efficiently to multiple clients to maximize net revenues. One way to increase gross revenue is to bring in clients who can afford some services at a discounted rate. Increased income generation, even at a lower than usual rate, not only helps cover operating costs but may also help fund investments to improve the business. Improving efficiency through the thoughtful use of technology, such as implementing a cloud-based case management system, could likely increase efficiency and reduce day-to-day costs.

Transparency is important when offering a sliding scale. All prospective clients should know the requirements for qualifying for a sliding scale rate, and there are numerous options for how to design a sliding scale. To that end, it is important to determine how much the law firm is willing to slide and how many clients it can afford to take on a sliding scale system. It would not make sense to slide so low that the firm is losing money by

providing a service, unless the firm intentionally makes that choice.

A law firm that offers a sliding scale has potential for increasing revenues by expanding its customer base. Assisting clients who may otherwise completely forgo legal assistance could help increase access to justice and may just help make this world a better place.

Coming in the next edition: Part 3: How low can your slide go?



*Sarah Bove is an LLLT and paralegal for attorney Rene Cespedes in Bellevue, WA. Her practice is focused on helping moderate income clients navigate the legal system in a holistic, thoughtful, and affordable manner and providing paralegal support for complex, high-asset family law matters and trial practice. She is also a silent partner at Legal Technician Division, PLLC.*



*Jennifer Ortega is an owner and partner at Legal Technician Division, PLLC. Her firm focuses on providing excellent family law services at affordable rates.*



"NATO winterlude ice sculpture" by jacob earl is licensed under CC BY-ND 2.0

## UPCOMING EVENTS

### Executive Committee Monthly Meeting

Section members are encouraged to attend any Executive Committee meeting!  
Zoom-link on or dial in and learn more about what's happening with our Section.

April 13, 2022

Regular meeting: 4:00 - 5:30 p.m., virtual happy hour: 5:30 - 6:30 p.m.

May 11, 2022

Regular meeting: 4:00 - 5:30 p.m., happy hour (likely in-person!): 5:30 - 6:30 p.m.

June 8, 2022

Regular meeting: 4:00 - 5:30 p.m., happy hour (likely in-person!): 5:30 - 6:30 p.m.

*The Low Bono Section is committed to justice for all and invites participation by everyone involved in serving moderate-income individuals.*

**Join our section!**  
Visit <https://wsba.org/legal-community/sections/low-bono-section>.

### Hopefully coming soon - in-person meeting and social!

We are keeping our eye on guidelines for in-person Section meetings, and once it becomes clear an in-person meeting will be possible, we will announce it on our list serve. Join our list serve by going to groups.io, search for LowBonoWA, then follow the instructions to request access to the list serve. Hope to see you soon!