

Plenary: Our Changing Profession: Challenges and Opportunities

Presented By:

Paula Littlewood
Washington State Bar Association
Seattle, Washington

Presented at:
ACLEA 52nd Annual Meeting
July 30th – August 2nd, 2016
Seattle, Washington

Paula Littlewood
Washington State Bar Association
Seattle, Washington

Paula Littlewood, Executive Director, WSBA - Ms. Littlewood joined the WSBA staff as Deputy Director in September 2003 and became the Executive Director in May 2007. She is a graduate of the University of Washington School of Law and also received a master's degree in International Studies from the UW. Prior to law school, Ms. Littlewood was a professional campaign coordinator and fundraiser here in the state, working both on statewide candidate and initiative campaigns as well as local legislative races. She also taught English in Taiwan for 2 years and spent another 10 months traveling in China and Southeast Asia. After law school, Ms. Littlewood served as Assistant Dean for Administration and Public Relations at the UW Law School for 5 years, then spent a year in Telluride, Colorado, before joining the WSBA. In addition to her full-time position as Executive Director of the WSBA, she is a member of the Executive Committee of the University of Washington School of Law's Leadership Council; serves as a member of the International Institute of Law Association Executives (IILACE) Executive Committee and is Chair of its Program Committee. Ms. Littlewood recently served as a member of the American Bar Association's Task Force on the Future of Legal Education and is currently serving on the ABA's Commission on the Future of Legal Services, co-chairing its Regulatory Opportunities Subcommittee.

Digital Immigrants vs. Digital Natives

Who's the Tech Generation?



I am a digital immigrant. I went off to college with a new suitcase and typewriter in hand. I not only have seen an 8-track tape, I had friends with 8-track tape collections. By comparison, some kids today have never seen a CD — it's all MP3s for them. My eight-year-old daughter excitedly held up an iPod cover at one of those kiosks in the mall recently and said "Mommy, I want this one!" I asked her if she knew what the image on the cover was and she confidently exclaimed, "A radio!" It was designed to look like a cassette tape. No, she's probably never seen a cassette tape. Yes, she's a digital native.

There has been much written in the last decade or so about having four generations in the workplace for the first time. Digital natives tend to be Gen Xers and Millennials who grew up with a mouse in hand; the Traditionalists and Baby Boomers are digital immigrants (see above reference to typewriter and suitcase). We know that more than 50 percent of the WSBA membership will transition out of the practice in the next 10–15 years, so what will it look like as the Gen Xers and Millennials begin to take center stage?

First, it might be helpful to get a snapshot of the five generations currently alive.¹ Of course these descriptions are broad generalizations, but they begin to help orient the generations to each other and ourselves to each generation.

The Great Generation

Members of the Great Generation were born between 1901 and 1924. Key events that shaped this generation include: Born in high times, experienced the Great Depression, watched the New Deal take shape, fought and won World War II, and came home to build the strongest economy in history while also giving birth to the Baby Boomers.

Their key values are: financial security, patriotism, belief in the power of institutions, respect for authority, and selflessness. The critical technological changes in their lives were rural electrification and commercial radio.

The Traditionalists (or Silent Generation)

This generation was born between 1925 and 1945. Traditionalists were shaped by many key events. Most of this generation missed serving in World War II, but lived through it as children and adolescents



who matured in the 1950s. They grew up with a military draft, came of age during the tension of the Cold War, experienced a long period of social stability and family unity, and then experienced significant disenchantment when the Vietnam War and the Watergate scandal challenged their core beliefs about authority. Over 40 percent of the men in this generation served in the military, and they believe in top-down control and centralized decision making.

Key values for this generation are loyalty, self-sacrifice, stoicism, faith in institutions, and intense patriotism. The critical technological change in their lives includes the spread of private automobile ownership, the use of early office "machines," and massive industrialization.

The Baby Boomers

Born between 1946 and 1964, the Baby Boomers are the largest generation in the history of the U.S.

Key events that shaped this generation include growing up in an era of huge social change (e.g., the Civil Rights Movement and Women's Rights), but in a wealthy nation, often overindulged by their parents. Because of the Cold War, Boomers, until they were well into their adulthood, lived in a world that might be snuffed out in a day. They were the first generation in nearly 200 years to rebel openly against the government, and nearly every social, scientific, and cultural institution underwent significant change during their adolescence.

Key values are optimism, cynicism about institutions, competition, focus on career, and endless youth. The critical technological change for this generation was television. In 1952, there were four million privately owned televisions; by the turn of the next decade there were over 50 million.

Generation X

Born between 1965 and 1980, the key events shaping this generation include images of the American troops fleeing Vietnam, Watergate and Nixon's resignation, the Jonestown massacre, AIDs, the Exxon Valdez spill, the space shuttle Challenger explosion, and being the first latch-key kids. The key values that developed as a result are independence, self-reliance, desire for stability, informality, fun, sense of entitlement, and a desire for work-life balance.

The critical technological changes in their lives are the rise of the personal computer, cable TV, microwaves, and video games.

Millennials (sometimes called Generation Y)

Born between 1981 and 2002, the Millennials are almost as large in size as the Boomers. Children of the Boomers, they are the first generation born into a true high-tech society and are hardwired to the Internet. They are civic-minded, even more than their parents, and have a value structure that includes lifelong learning and work-life balance. More than any other American generation, they are wired for collaboration and for working in groups.

Their key values are work-life balance, confidence, social commitment, *complete* comfort with technology, networking, realism, and *superb* time management. The critical technological change in their lives was the connection between the personal computer and the Internet, accented by the rapid pace of technological advances and innovation. They are connected.

Bar association leadership over the last 5 to 10 years across the nation has been discussing these gen-

erational changes: What does it mean for association membership and what does it mean for the profession? I'm heartened most by the Gen Xers and Millennials desire for work-life balance. When I served as assistant dean at the University of Washington School of Law, I heard from many older alumni that they wished they had spent more time with their kids growing up. By using technology to access their work, Xers and Millennials have helped all of us learn that we can get our work done and not be tied to the office.

The other big discussion among bar leaders has been about Xers and Millennials not being "joiners." In other words, they don't join the local bar because "that's just what you do"; rather, they seek value and ways for meaningful engagement. Interestingly, I don't think this characteristic means they aren't joiners — it just means they join based on other criteria. These generations have been described as project-oriented. Give them a meaningful project to engage in and they are

the hardest workers at the table, and they're the first to sign up for the next project when it comes around.

While some look at the mix of generations as a challenge, I think it brings a wonderfully rich mixture into the fabric of our work and culture. Technological advances over the decades have clearly helped to shape each generation, and I think we digital immigrants have benefited greatly from the technological prowess of the digital natives. The real question, it seems, is what technological advances await us and how will they shape the next generation and our profession? **NWL**

Paula Littlewood is the WSBA executive director and can be reached at paulal@wsba.org.

NOTE

1. The description of the various generations is based largely on the work of Peter Brinckerhoff, author of *Generations, The Challenge of a Lifetime for Your Nonprofit* (2007).

We know workers' comp.

Workers' Compensation and Social Security Disability



Now with offices
in Seattle and Everett

Toll Free: 866-925-8439

Phone: 206-623-5311

www.walthew.com

We welcome and appreciate every referral.

Left to right: Kathleen Keenan Kindred, Robert H. Thompson and Thomas A. Thompson
Top: Robert J. Heller and Patrick C. Cook Bottom: Jonathan K. Winemiller and Michael J. Costello

The
WALTHER
LAW FIRM

Moving Forward

Taking a fresh look at law and the profession

In my column last month, I outlined many of the trends influencing our profession that are leading to rapid change on many fronts (“Let’s Seize the Moment”). The column briefly discussed five major influences, including a shifting lawyer demographic; the changing nature of the world and our clients; how we deliver our services; and the delivery of legal education. My message overall in that column was that we should seize this opportunity to make changes to how we do our work and bring the profession into the 21st century.

The 21st-Century Judicial System

So how do we seize the moment and move forward? Foremost, I think we must allow ourselves to let go of past practices and notions and innovate in three areas. First, with respect to the court system and judicial system funding, we need to ask ourselves what the judiciary of the 21st century should look like. We are working with a judicial system that was created hundreds of years ago and it may be time to rethink how the judiciary delivers its services. In this day and age, it seems unimaginable that someone has to go to the courthouse sometimes upwards of eight times to get a divorce. The public accesses information and services in a different manner now and our profession needs to keep up with these trends (e.g., think of how technology has impacted the newspaper, music, and book industries).

While I don’t disagree that court funding is at a real crisis in our country, I wonder if we approached the Legislature with a new model for delivery of judicial services, whether we might have more success in securing additional funding. That is, rather than asking the Legislature to keep nursing along a horse that may have come to the end of its ride, perhaps we could develop a restructured, progressive

system and ask the Legislature to fund it. We are lucky to live in a state where judicial officers all around the state are developing progressive models for the delivery of services at every level of court; we are also fortunate to have a chief justice who is leading the branch toward thinking in new and exciting ways to serve the public and its needs of today. But judges cannot redevelop the system alone, and the profession, that is, judges and lawyers, need to come together to produce the best system possible for the clients and public we serve.

An Overcomplicated System?

Second, I think we as a profession need to own that we have made the system too complicated. While no one set out to reach this result deliberately, we must acknowledge that fact and work to simplify things. When I was giving my “Futures” presen-

tation a few months ago, a former legislator in the audience remarked that one of her frustrations during her time in the Legislature was the proliferation of statutes and the lack of review in a systematic way to ensure there was not duplication, or even contradiction, of policies in the statutes. I often remark that I am a lawyer and there are numerous things that I could not figure out on my own if I needed to. I don’t mean to discount the importance of the nuances that have developed over the decades with respect to numerous areas of law, but it seems coordination and simplification of the system in many areas might be a good starting point.

Navigating the System

Third, and this recommendation flows from the two outlined above, we need to acknowledge that some people can navigate the system on their own and we need to give them the tools to do so. While the recession has led to a significant increase in pro se representation, if given the proper information and roadmap, many people could do it on their own. The reality is we will never have enough lawyers to serve every person facing a legal problem, so how do we slice the system in a way that allows for some people to navigate it

The public accesses information and services in a different manner now and our profession needs to keep up with these trends...



The Changing Legal Services Market

Offering Services Now and for the Future

If you've read my columns over the last few months, you'll find a pervasive theme of focusing on the future of the profession. In both pieces, my overarching message was the importance of preparing for, and seizing the opportunity, to bring our profession into the 21st century.

In the first column, I outlined some of the major trends influencing the profession and followed that with specifics about the changes we might think about in order to prevent being overtaken by the tidal wave of changes coming.

Moving from the bigger picture level to the daily operations here at the Bar, I'd like to share some of the changes happening at the WSBA to ensure our programs and services are aligning to meet the transitions occurring.

As we move into the future, the trends indicate we will no longer be educating and regulating just lawyers; rather, we'll be educating for and regulating a legal services market. This latter concept can be understood as a market where lawyers are the cornerstone, but legal services will be provided by others, such as limited license practitioners, and perhaps other professionals not yet thought of.

As you'll read about later in this issue (see page 23), the Supreme Court's Limited License Legal Technician (LLLT) Board is underway, and under a national spotlight, as this program, created by Court rule, is the first of its kind in the nation. Within a year, the board is expected to establish the educational and professional framework for the LLLTs. They will have more training and responsibility than paralegals but will not appear in court or negotiate for clients.

Significant sectors of the public cannot afford lawyers, and those of us in the profession are best positioned to figure

out what's needed to address these issues. We also know there are many people out there engaging in the unauthorized practice of law, which is harming the public and the profession. One hope of this new program is to bring these folks in under the regulatory framework of the LLLT program, while helping to meet the needs of those who are inadequately served or not served at all.

Another change just around the corner is the WSBA's transition from the Washington Bar Exam to the Uniform Bar Exam (UBE), beginning this July. This change addresses the increasing need for cross-border mobility. Besides Washington, 12 other states have adopted the UBE thus far. Those who pass the exam earn portable scores that allow them to gain a license to practice in the other UBE states without taking another bar exam, as long as their score meets the standard set by that state, and they meet additional admission requirements in those states that require it.

Getting new lawyers up to speed as they enter the profession has long been a focus for the WSBA, but a few years ago the Board took a bold step and said that WSBA must play a stronger role in on-boarding new lawyers into the profession. The result is the New Lawyer Education (NLE) program, which provides free and low-cost skills training for attorneys in their first four years of practice. NLE has focused on two key initiatives — first, providing all new



As we move into the future, the trends indicate we will no longer be educating and regulating just lawyers; rather, we'll be educating for and regulating a legal services market.

admittees a free four-hour orientation course, which is required prior to receiving a bar license. This Preadmission Education Program (PREP) is available as an interactive online course or as a program available to bar and county leaders statewide to deliver in their local jurisdiction. Second, NLE continues to build a library of skills-focused, MCLE-accredited seminars, with the involvement of Young Lawyers Committee (YLC) and Section leaders.

Helping to address the lack of practical experience, and in many

cases, job prospects, WSBA offers significant training and mentorship through its Moderate Means Program, which is designed to help those clients between 200 and 400 percent of the poverty level.

The program is a partnership with the state's three law schools, where students conduct the intake and refer potential clients to attorneys who have signed up, trained, and agreed to accept cases for reduced fees.

Through this program, law students gain valuable skills training before graduating and attorneys in all stages of their careers are signing up to participate; our newer and younger attorneys are finding it increasingly valuable as they gain practical experience while also having access to ongoing training and mentorship from more seasoned attorneys. It's a win-win for attorneys, law students, and clients.

On the other end of the spectrum are those of you who are nearing retirement. This "graying" of the bar is a trend we have been watching for several years. To address this demographic shift, the WSBA has created a program

called Practice Transition Opportunities (PTO), which seeks to match those ready to sell a practice outright or transition out over a period of time with those interested in buying a practice, or perhaps a more gradual mentoring experience that may lead to a sale over time.

Our goal is to provide the tools and a platform for sellers and those transitioning to find the right match for their situation. It allows for the confidential posting of a transition, and the ability for those interested to reach out. The WSBA serves as a resource and matchmaker, but steps out after that and leaves the parties to proceed on their own. This service is available on our website.

We're finding that not only is this program serving our members at the ends of their careers, but it's providing an avenue for younger and newer attorneys to potentially transition into or buy a practice outright. Again, a win-win situation for all of our members. Read more about it on page 25.

Finally, there has been much in the news and literature the last few years about outsourcing of legal work to In-

dia and other markets. In an attempt to help members who are interested in contract work connect with potential opportunities for work here, the WSBA will soon offer an additional feature on its Career Center page, which currently houses a robust job board. Those seeking contract work will have the ability to make that known, while those offering contract work will easily be able to identify those that might be a match.

Along with the changes I've highlighted and the programs I've called out, the WSBA offers a host of other programs and services aimed at preparing for the 21st-century legal services market. As I've highlighted throughout all three columns, this time is an opportunity to shape our future and the future of the profession. I look forward to seeing the places we will go and the things we will achieve. **NWL**

PAULA LITTLEWOOD is the WSBA executive director and can be reached at paulal@wsba.org or 206-239-2120.

For over 75 years, attorneys have been referring people to The Walthew Law Firm. Here's why:

We know Workers' Comp.



Attorneys from left:
Patrick C. Cook
Thomas A. Thompson
Jonathan K. Winemiller
Kathleen Keenan Kindred
Robert J. Heller
Kylee M. Redman
Michael J. Costello
Robert H. Thompson

At The Walthew Law Firm, our dedicated and knowledgeable trial attorneys are committed to protecting our clients' rights in the area of Workers' Compensation and Social Security disability.

The
WALTHER
LAW FIRM

We welcome and appreciate your referrals.

WORKERS' COMPENSATION | SOCIAL SECURITY DISABILITY

The Walthew Building | 123 Third Avenue S, Seattle, WA 98104 | tel 206.623.5311 or 1.866.925.8439 | www.walthew.com

on their own successfully? It is precisely this dynamic that has led to the rise in online services such as LegalZoom. How do we harness this ability of the consuming public as a way to enhance the services we provide rather than view it as an encroachment on our profession? As I discussed in my column last month, clients are resorting to a “Home Depot” mentality of doing it themselves anyway, so it seems there is greater strength for the profession in understanding that fact and working to determine what portions of our

work can be commoditized through technology and other means while retaining the pieces that are essential to having representation by a lawyer.

There Is More Control in Letting Go

The reality is this: technology and other drivers will continue to move legal work out the side door in response to a public that demands more affordable legal services and a system that is more easily accessed. To me, there is more control in letting go. Letting go, for example, of the pieces that don’t require the training that



we received in law school.

To (admittedly) oversimplify legal services, think of a grid with four boxes (see illustration above). The top two boxes represent what I believe to be the special training that I received in law school; the bottom two boxes capture the work that can be, and already is being, commoditized. Does it make sense to let go and think of ways to allow the consuming public to access those bottom two boxes more easily and affordably?

What’s at Stake?

The cornerstone of our system is based on the rule of law. As I wrote about in my column in March 2012 (“Lawyer Volunteers: Preserving our Democracy and Enhancing our Profession”), the foundation of our system requires that the judiciary be fair and impartial and free from undue influence by the other branches of government; a fair and impartial judiciary relies on an independent legal profession free of similar pressures from outside influences in order to preserve its independence. That is why lawyers have been given self-regulation independent of the legislative and executive branches. That is why we must preserve the system we have by meeting the needs of the public.

It is imperative that we seize the moment and innovate. While many of these trends and implications are overwhelming, I think this time for our profession presents exciting opportunity. And what excites and motivates lawyers more than a challenging problem? I say, let’s get to solving! **NWL**

Paula Littlewood is the WSBA executive director and can be reached at paulal@wsba.org or 206-239-2120.

RON PEREY has over 40 years of experience handling personal injury and medical malpractice claims. For over a decade he has been voted by his peers to be in Best Lawyers in America and a Washington Super Lawyer in the areas of personal injury and medical malpractice law. He has tried hundreds of jury cases and settled thousands of personal injury claims. **DOUG WEINMASTER** has been voted by his peers to be in Best Lawyers in America in the areas of personal injury and medical malpractice law. **DR. ALEXANDRA MCCAFFERTY**, as Medical Director, reviews all medical malpractice and injury claims.



PHONE 206.443.7600 | www.pereylaw.com | FAX 206.443.4785

Let's Seize the Moment

There is no question our profession is changing. Indeed, it is changing faster on a daily basis than we can probably appreciate at any given moment. With this tidal wave of change coming, it seems to me we have two choices: we can either paddle out and ride the wave of change, or we can wait for it to crash down over us and we'll be left picking up the debris that surrounds us after it lands.

With the advent of our new format for the Bar magazine this month, it seemed an opportune time to highlight some of the changes we are seeing. Outlined below briefly are five of the major influences impacting how we do our work and how we deliver legal services in this changing global context. These five trends are: a changing lawyer demographic, the changing nature of the world, the changing nature of law firms and attorneys, the changing nature of clients, and the delivery of legal education.

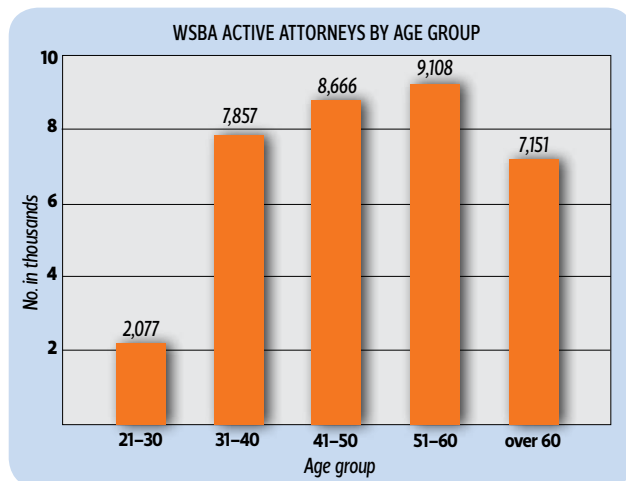
As I have outlined in previous columns and as our recent membership study confirmed, our lawyer population is aging and significant numbers of lawyers will be transitioning out of the profession in the next 10 to 15 years. The graph is a snapshot of the WSBA membership by age. You will quickly notice that the bars on the right side of the graph are much higher than the bar to the left: while many contend there are too many lawyers in the United States, I'm concerned that if this trend continues we may be looking at a shortage of lawyers in the future. This concern is compounded by the fact that there has been a significant drop-off in law school applications the last two years nationwide (a 14 percent drop in law school applications last year and a 16 percent drop in the number of people taking the Law School Admissions Test (LSAT)).

The world in which we must deliver legal services is also changing drastically. The gulf between the haves and the have-nots continues to widen (the 2010 census showed that the richest one percent of Americans account for 24 percent of all income) and this gap has only been exacerbated by the recent recession. The overall population is aging as well: Washington's elderly population is predicted to double in size between 2005 and 2030. Finally, among other changes, technology has led to increasing global ties such that,

a solo or in a small firm, but these numbers are increasing as new attorneys emerge into the market to find not as many opportunities in the large firms and public sector. We have also seen a trend toward large firms sometimes imploding or merging together to make even larger firms.

In addition, new lawyers are demanding a work-life balance and they are using technology to make this balance more of a reality. When I served as assistant dean at the University of Washington School of Law, I had many older alumni comment to me that they wished they had spent more time with their kids while they were growing up. With remote technology and other options to do our work at locations other than a physical desk, I think newer lawyers offer much hope for our profession in showing us that one can attend their son's or daughter's — or even their own — soccer game and still get the work done.

And, yes, after decades of hearing that the billable hour is coming to an end, we are actually seeing a major shift toward alternative fee arrangements, that is, value-based billing that provides predictable expenses for the client and a more effective delivery model for lawyers. As one major law firm partner in Chicago commented, "In an [alternative fee arrangement], you are able to do whatever you need to do to win the case. It's exciting to think about. And



for example, an economic meltdown in Greece recently was of serious concern to the United States, whereas even ten years ago it is hard to imagine that such activity on the other side of the globe would have been so closely tied to our economy.

The business model for how lawyers do their work is changing as well. We have always known that more than half of our members practice as

With this tidal wave of change coming, it seems to me we have two choices: we can either paddle out and ride the wave of change, or we can wait for it to crash down over us and we'll be left picking up the debris that surrounds us after it lands.

that's why our teams are more senior; it doesn't cost the client any extra to have that senior person in the room, or to have an associate at a key deposition to learn strategy and technique."

The billable hour has long been cited as the root cause of lawyer dissatisfaction with the profession and client dissatisfaction with lawyers. Much of this drive to change billing structures is coming from corporate clients, as general counsels are getting pressure from CEOs and CFOs to contain costs and meet legal-fee budgets set for the year. In reaction to the increase in billing rates over the last 10 years, outside counsel use by corpora-

tions has also declined.

Our clients are also changing. The consuming public is resorting to a "Home Depot" mentality when it comes to legal services. Lawyers are expensive, and even if someone can afford a lawyer, people want to spend as little as possible. Clients are using technology more, and Legal Zoom boasts some 2 million satisfied customers. Cybersettle is settling claims with no lawyers involved at all, to the tune of more than \$1.8 billion in settlements performed. Google and Lexis-Nexis have invested millions in Rocket Lawyer, and consumers can pay by the minute for lawyers

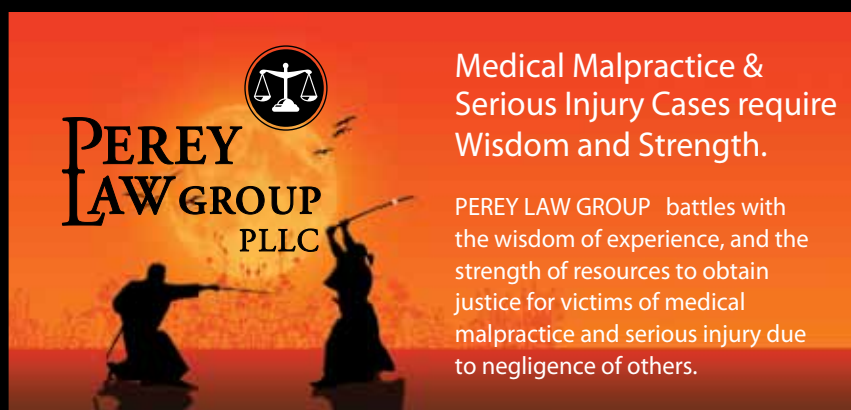
found at ingenio.com. As a profession, we need to embrace and understand the changes that technology is bringing since we know what impact technology brought to other professions such as newspapers, music and books.

Finally, there has been much in the news the past year or more about legal education and the many issues facing the academy. New lawyers often graduate with staggering debt loads, with loans exceeding \$100,000 for private schools and close to \$70,000 for public schools, and these amounts do not include any undergraduate loans students may have accumulated before law school. From 1989 to 2009, when college tuition rose by 71 percent, law school tuition shot up 317 percent. The job market these new lawyers face is difficult and only 65.4 percent of 2011 graduates with known employment had jobs that required bar passage. Finally, law schools are under pressure to enhance their curriculum with more skills training courses and other studies that will help prepare graduates for the actual practice of law.

We are fortunate in our state to have three law school deans who are taking these issues head on and working to reform legal education and prepare their students for the needs of the 21st-century lawyer. The American Bar Association is also addressing the problem through a task force appointed by last year's president and I have the honor of having been appointed to this task force that is looking at the future of legal education.

Many of you have seen the presentation I give on the future of the profession at CLEs and other venues, and it is about at this point in the presentation where I acknowledge that all of these trends can seem overwhelming — and perhaps even disheartening! — but I think this juncture in our profession offers us great opportunity for seizing the moment and "riding the wave," as I mentioned at the outset of this column. In my next column, I will outline the opportunities and where I think we can go from here. I also encourage you to join UW Law Dean Kellye Testy and me as we discuss these issues at a Town Hall on Jan. 29 at 5:30 p.m. **NWL**

Paula Littlewood is the WSBA executive director and can be reached at paula@wsba.org or 206-239-2120.



PEREY LAW GROUP PLLC

Medical Malpractice & Serious Injury Cases require Wisdom and Strength.

PEREY LAW GROUP battles with the wisdom of experience, and the strength of resources to obtain justice for victims of medical malpractice and serious injury due to negligence of others.

RON PEREY has over 40 years of experience handling personal injury and medical malpractice claims. For over a decade he has been voted by his peers to be in Best Lawyers in America and a Washington Super Lawyer in the areas of personal injury and medical malpractice law. He has tried hundreds of jury cases and settled thousands of personal injury claims. **DOUG WEINMASTER** has been voted by his peers to be in Best Lawyers in America in the areas of personal injury and medical malpractice law. **DR. ALEXANDRA MCCAFFERTY**, as Medical Director, reviews all medical malpractice and injury claims.



PHONE 206.443.7600 | www.pereylaw.com | FAX 206.443.4785



The Practice of Law In Transition



Some of you will remember a time when only a doctor could draw your blood. If a doctor came into your patient room today to draw your blood, you would either run for the door or say, “Bring me the phlebotomist or the nurse.” Forty years ago, Congress told the medical profession that they were not doing an adequate job of serving the public, and it is around this time that we saw the advent of the nurse practitioner and other medical professionals aiding in the delivery of medical services.

I use the medical analogy because the transition the medical profession underwent is much akin to the transition the legal profession is experiencing. As I have written about before in this column, in the future we will no longer be educating and regulating lawyers; rather, we will be educating for and regulating a legal services delivery market. While lawyers will always be the cornerstone of that delivery, there will be many other legal professionals and providers assisting in the delivery of legal services.

Washington state is leading the nation in this transformation with the advent of the Limited License Legal Technicians (LLLTs), a newly created license to practice law in a defined and limited scope created by our Supreme Court a little over three years ago when they adopted Admission and Practice Rule 28 (APR 28).

Last month, the first LLLTs took the first licensing exam in the area of family law and seven of the applicants passed, which is a 78% passage rate. In

Washington state, we now issue three licenses to practice law: the license that more than 37,000-plus of us have; the limited practice officer license (the LPOs are licensed in a narrow scope where they can select and prepare real estate closing documents); and the LLLT license, which has a broader scope than the LPO but is still a defined scope intended to apply in various practice areas (family law is the first practice area that has been approved by the Supreme Court).

The LLLT is the first independent legal paraprofessional in the United States that is licensed to give legal advice. The Supreme Court’s LLLT Board has developed this program in conjunction with the WSBA (which is the regulatory agency for the profession acting under delegated authority of the Supreme Court) and the Board has been guided by what it terms the three A’s: Accessibility, Affordability, and Academic rigor.

LLLTs must complete an education that includes both community college level courses (completion of an associate’s degree with 45 of the 90 credits dictated by the regulations of APR 28) and law school level courses for the practice area education, with family law requiring 15 credits of study. Prior to licensure, the LLLTs must also complete 3,000 hours of work under the supervision of a licensed attorney; they must take three exams prior to licensure; and they must carry malpractice insurance. The first exam is on the core education and is completed by taking the Paralegal Core Competency Exam (PCCE); they

must also pass an ethics exam and then a practice area exam for each area they would like to be licensed in that mirrors the Uniform Bar Exam, which includes a multiple choice section, an essay section, and a closed universe practicum exam.

The LLLT is the first independent legal paraprofessional in the United States that is licensed to give legal advice.

LLLTs have their own Rules of Professional Conduct (modeled on the lawyer RPC). They are held to the same standard of care as a lawyer and they will have the attorney-client privilege. Like all of us, they will be legal professionals in every sense of the word.

We are thankful that our Supreme Court stepped in and created the LLLT license. By doing so, the Court is maintaining control over the practice of law in our state and maintaining our status as a profession. We have learned from the experience of the doctors who resisted the changes, and, as a result, saw the nurse practitioner and some other medical professionals develop under a different umbrella (such as the nursing umbrella).

While the bar resisted the LLLT up until the Supreme Court’s adoption

of the rule, we now see that a culture of innovation has been created in Washington. Many people are now approaching the LLLT Board suggesting different areas where the concept of the LLLT might work.

For too long as a profession we have produced a one-size-fits-all professional, yet the needs of the consuming public have never been one-size-fits-all. We have convinced ourselves and the consuming public that only a lawyer can help them. But not every legal problem needs a lawyer, just as every medical procedure, like drawing blood, does not require a doctor.

As we have all experienced in our lives, some times there is more control in letting go. Our job as a profession now is to figure out which pieces to let go of and which we must maintain in order to ensure greater access and protection for the consumer. The consumer is already choosing other alternatives for their legal service needs such as LegalZoom and other

online services; many also turn to unqualified and unregulated providers as their only recourse. We must work to ensure greater access to the system through expanded delivery models while keeping consumer protection at the core of our objectives and maintaining our status as a profession. **NWL**

PAULA C. LITTLEWOOD is the WSBA executive director and can be reached at paulal@wsba.org.



Legal Lunchbox Series



Dishing Up Free CLEs!

The WSBA invites you to lunch and learn while earning 1.5 CLE credits. And the tab is on us! The WSBA hosts a 90-minute, 1.5 credit, live webcast CLE at noon on the last Tuesday of each month.



To register and for more information, visit www.wsba.org.

Justice for Victims of Asbestos Diseases

Mesothelioma • Asbestosis • Lung Cancer

THE NORTHWEST'S LEADING ASBESTOS LITIGATION FIRM

At Bergman Draper Ladenburg Hart, we have just one practice area; we represent families struggling with mesothelioma and other asbestos related cancers and diseases.

We are the largest plaintiff asbestos firm in the Northwest with over \$500 million in recoveries for Washington and Oregon clients.



614 First Avenue, Fourth Floor
Seattle, WA 98104
(206) 957-9510

805 SW Broadway, Suite 2540
Portland, OR 97205
(503) 548-6345

www.bergmanlegal.com (888) 647-6007