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Tomorrow, and Tomorrow, and Tomorrow: Ethics 20/20 Amidst a Changing Profession

Thomas Ross

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**TOMORROW, AND TOMORROW, AND TOMORROW:
ETHICS 20/20 AMIDST A CHANGING PROFESSION**

*Thomas Ross**

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I. INTRODUCTION: THE GROUND SHIFTING BENEATH OUR FEET

The Ethics 20/20 Commission began its work in 2009, focusing on the phenomena of “technology” and “globalization” in the context of the legal profession.¹ In confronting these challenges, the ABA also importantly charged the Commission with preserving the core professional values of the American legal profession.² Four years later, countless hours of work, report stacked on report, multiple changes to Rules and Comments proposed and adopted, it now seems quite sensible to pause and reflect on the Commission’s work.

This Symposium asks us to gauge the probable impact of the Commission’s work on the practice of law in this country. Do we imagine the impact to be large, a tsunami, or modest, a ripple, or perhaps

* Professor of Law, University of Pittsburgh School of Law. B.A., 1971, J.D., 1974, University of Virginia. I thank my friend and former student, Jack Sahl, who graciously included me in this remarkable Symposium. I also express here my great regard for his important work in the field of legal ethics.

1. ABA Commission on Ethics 20/20, *Report to the House of Delegates: Introduction and Overview*, 1 (August 2012), available at http://www.americanbar.org/content/dam/aba/administrative/ethics_2020/20120508_ethics_20_20_final_hod_introduction_and_overview_report.authcheckdam.pdf.

2. *Id.* (“In August 2009, then-ABA President Carolyn B. Lamm created the Commission on Ethics 20/20 to tackle the ethical and regulatory challenges and opportunities arising from these 21st century realities. She charged the Commission with conducting a plenary assessment of the ABA Model Rules of Professional Conduct and related ABA policies, and directed it to follow these principles: protecting the public; preserving the core professional values of the American legal profession; and maintaining a strong, independent, and self-regulated profession.”).

something in between? A simple answer would be that the impact is likely to be more like a ripple as — at almost every turn — the proposals adopted accommodated the various market shifts and did not seek to divert or regulate those shifts in any strong way. But, the more I have studied the work of the Commission, and the more I have learned about the practice world of the 21st century, the more I believe that the focus and the metaphors here may be inapt.

In my primary professional home, the legal academy, we hear the phrase — “the ground is shifting beneath our feet” — more and more these days. Law schools seem increasingly to be entering into a survival mode — trying to figure out how to stay afloat as application numbers continue to crash and more and more observers question the utility of an investment in legal education.³ For the first time in my professional career, law schools — at least those outside the most elite circles — project an anxiety about their very existence.⁴

As we reflect upon the Commission’s work, the more interesting question may be what Ethics 20/20 suggests about the very idea of the ABA in the coming world of “globalized” and “outsourced” legal practice. Or to use the metaphor drifting around in the academy these days, does the Commission’s work suggest that the organized bar also feels as though the ground is shifting beneath its feet? And, is the phenomenon that was Ethics 20/20 a totem of an organized bar in its own kind of survival mode — a bar struggling to hold on to its relevance as the market forces increasingly seem to move away from the model of lawyering that has always given the bar its essential sense of identity?

This is not a matter simply of the survival of institutions. My guess would be that 20 years from now there will be an ABA that will continue to function in somewhat familiar ways. Lawyers will continue to engage in an activity we will recognize as the “practice of law.” Law schools will continue their educational function in ways not wholly alien to today’s curriculum, I imagine. I am less confident, however, about the preservation of the “core professional values of the American legal profession”⁵ in this new world of technology-driven and globally constructed practice.

3. Adam Cohen, *Just How Bad Off Are Law School Graduates?*, TIME (Mar. 11, 2013), <http://ideas.time.com/2013/03/11/just-how-bad-off-are-law-school-graduates>. (“Prospective law students are already responding to the dismal job market. Applications to law school are expected to hit a 30-year low this year — down as much as 38% from 2010. Some law schools have responded by shrinking their class sizes, and there have been predictions that in the not-too-distant future some lower-ranked law schools might have to close entirely.”).

4. *Id.*

5. ABA Commission on Ethics 20/20, *supra* note 1 and text accompanying note 2.

This is not an indictment of the Ethics 20/20 Commission. I am not sure that anything the Commission might have done could deflect the tide of change that is coming. What does seem reasonably certain though is that the professional life of the 21st century lawyer will increasingly diverge from the practice world of even the late 20th century. It also seems certain that these dramatic shifts in the practice world will affect to some meaningful degree the core professional values of loyalty and confidentiality.

In Part II of this paper, I will sketch briefly my sense of some of the important ways in which the practice of law seems to be evolving. Part III will revisit the work of the Ethics 20/20 Commission and suggest that the posture of the Commission and of the ABA elite in this initiative has been essentially one of accommodation and facilitation, rather than an oppositional stance. I will briefly note a historical instance of the organized bar taking such an oppositional stance and offer some hypotheses about why the organized bar has chosen these two different postures in these different contexts. Finally, Part IV will address what this may all mean for the maintenance of the core values of the American legal profession.

II. THE SHIFTING GROUND

No one can doubt that the world of practice that I first entered in the mid-1970s is a world away from practice today. Anecdotally speaking, the firm I joined in 1975, Hogan & Hartson, with about 100 lawyers, was truly a “large corporate law firm” at that time. Today that firm continues as Hogan Lovells with more than 2,500 lawyers in forty offices worldwide.⁶

During my professional life, law firms have gotten bigger, global in their reach. The practice of law has become increasingly tied to technology. Lawyers in private practice are now “on call” 24/7 through their BlackBerries and iPhones. And, a law firm today of 100 lawyers would be considered “boutique” in its dimensions.

But the changes that seem to be sweeping across the practice landscape today, the trends that go under the banners of “technology” and “globalization,” promise to change the profession in ways that seem much larger than the changes that have come before. If these changes produce the extreme end of the possible effects they portend, the practice of law for the American lawyer at the mid-point of this century will bear

6. *About Us: Overview*, HOGAN LOVELLS, <http://www.hoganlovells.com/aboutus/overview/>.

little resemblance to the professional landscape of today, let alone that of the late 20th century.

Throughout the 20th century, lawyers in both solo practice and law firm practice, associates and partners, practiced for the most part in the “artisan” manner.⁷ Lawyers worked directly with clients with whom they had a professional relationship and handled the client’s problems in a custom fashion. Although transactional lawyers often used standardized forms and litigation lawyers had stock sets of discovery requests in their files, the lawyer viewed each representation as personal and focused on the particular client and context. Most significantly, the lawyer understood that the representation was built around a “relationship” between the lawyer and the client, whether that client was an individual or an institutional client — the idea of loyalty, mutual trust, and candid communication existed as working ideals in this form of practice. This is not to say that there weren’t instances of incompetent and even corrupt representation. But, the idea of the “lawyer-client relationship” was realized in the day-to-day practice.

Things began to change in the early years of this century. The number of lawyers in private practice plateaued and began to decline.⁸ The entry-level law firm jobs began to disappear⁹ — a decline accelerated by the global economic collapse of 2008. Average starting salaries plummeted,¹⁰ even as law student debt levels skyrocketed¹¹

But this is all just the beginning, the early gusts of a tempest of larger scale and larger implications. The legal services industry appears to be generally undergoing massive change. The basic engine of this change is wealth or more precisely, an opportunity for massive profit taking by new legal entrepreneurs. The watchword of this entrepreneurial movement is the “commoditization” of legal services.¹² This commoditization is occurring for the sophisticated corporate clients, the underserved small businesses, and the working-to-middle class individual clients. At every point in the delivery system, new business entities are looking for ways to standardize, package, and

7. Much of my understanding of the changes sweeping the profession has come from the work of Professor William D. Henderson of Indiana University. He has been at the forefront of the call for changes in legal education in response to these dramatic changes in legal practice. *See, e.g.*, William D. Henderson, *A Blueprint for Change*, 40 PEPP. L. REV. 461, 479 (2013).

8. *Id.* at 473-74.

9. *Id.*

10. *Id.* at 473.

11. *Id.* at 477.

12. *See generally* RICHARD SUSSKIND, *THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES* 27 (2008).

deliver those services in a cheaper and sometimes arguably more effective way than the old artisanal method of lawyering. And, here is where the most significant effects of the twin phenomena of the Commission's charge — technology and globalization — are being realized.

Tracing the effects of technology and globalization on the legal market is a large, complex, and multifaceted story — one that I am only beginning to come to understand. It is also true that no one can know what the future holds. It is possible that law practice in this country will not radically evolve in the coming decades. Perhaps this is all much ado about nothing. But, I can share some portents.

The rise of the “contract lawyer services” companies is a big piece of the story. For some time, law firms have hired lawyers on a “contract” basis, not as employees but as independent contractors. But companies have arisen that act as brokers for these services. These companies are able to summon a team of lawyers to take on discrete jobs — most commonly e-discovery work, document review, and other litigation consulting work. One of the prominent examples of such a company is Robert Half Legal. A repeat winner of Forbes' “World's Most Admired Companies” list, the company offers “Legal Project Solutions” provided by “Project Teams.”¹³ Robert Half Legal is owned by the publicly traded company, Robert Half International, and has twenty-six offices in North America.¹⁴ Not surprisingly, these companies are having little difficulty finding lawyers willing to work on a contract basis as the downturn in law firm jobs has dumped many experienced lawyers into the labor pool. (To the extent that the contract lawyer services companies are taking work away from the very law firms that are then laying off their young lawyers, there arises a kind of cruel feedback loop.)

Even more transformative is the emergence of the “LPO” companies, or legal process outsourcers. This phenomenon represents a kind of “globalization” that not only displaces the traditional law firm but displaces the American-trained and licensed lawyer altogether. For

13. [W]e assist law firms and corporate legal departments with staffing lawyer, paralegal, and other legal positions on a temporary, project and full-time basis in high-demand practice areas. We also provide legal project teams, along with dedicated project space and high-tech resources, for a wide range of initiatives including litigation support, e-discovery review and managed review.

Legal Careers & Staffing Agency: About Us, ROBERT HALF LEGAL, <http://www.roberthalflegal.com/AboutUs>.

14. See *About Us*, ROBERT HALF INTERNATIONAL, <http://www.rhi.com/AboutUs>; *Office Locations*, ROBERT HALF LEGAL, <http://roberthalf.com/legal/OfficeLocations>.

example, Pangea3 is a company acquired by Thomson Reuters, headquartered in New York City and Mumbai, India.¹⁵ Foreign trained lawyers and legal staff provide legal services to U.S. clients at a fraction of the cost of using domestic law firms. Part of these cost savings come from the labor costs arbitrage of using foreign lawyers paid far less than their U.S. law firm associate counterparts. But firms like Pangea3 are also resorting to the commoditization of legal services through what it calls “process solutions” or pre-packaged bundles of legal services. Pangea3 has experienced staggering growth rates.¹⁶ (If you go to the Pangea3 website, you will see a section discussing what it describes as the ABA’s “blessing” and “endorsement” of their business model in the form of the ABA’s 2008 ethics opinion on outsourcing.)

Another new form of entrepreneurship has arisen around the use of what is called “predictive coding” in e-discovery and document review work. This method of review uses algorithms rather than manual review — taking the labor costs arbitrage to a new level. Kroll Ontrack is a prime example.¹⁷ It is owned through a layer of companies by one of the most prominent private equity funds in the world, Providence Equity.¹⁸ If you go to the website of this significant supplier of “legal services,” you will find the page of “Management Bio’s” of the people who run the company. Among those bios there is not a J.D. in sight — all business and computer science degrees.

These law firm alternatives attract the institutional clients because they offer cost savings and thus strengthen the client’s bottom line. These are savings that the traditional law firms simply cannot match. The artisan, customized, manual forms of lawyering that have

15. Founded in 2004, Pangea3 has grown to become the largest pure-play LPO company globally. In 2010, we became part of Thomson Reuters, the world’s leading provider of intelligent information to legal and business professionals. Pangea3 is headquartered in New York City, NY and Mumbai, India, with operations in Mumbai, Delhi, and Dallas, TX.

About Us, PANGEA3, <http://www.pangea3.com/about/company-overview.html>.

16. INC., a website and magazine focusing on entrepreneurs and private business owners, reports Pangea3 went from \$1.8 million in revenue in 2006 to \$9.7 million in 2009, with a three-year growth of 432 percent as of 2010. *Company Profile: Pangea3, INC.*, <http://www.inc.com/profile/pangea3>.

17. Kroll Ontrack is the technology services division of Altegrity, an industry-leading provider of information solutions. Altegrity, Inc., is the largest commercial provider of background investigations for the government; the world’s leading risk consulting company that provides a broad range of investigative, intelligence, financial, security and technology services to organizations and multinational corporations around the world

Overview, KROLL ONTRACK, <http://www.krollontrack.com/company/overview>.

18. *See About-Us*, KROLL, <http://www.kroll.com/about-us/history>.

traditionally defined the profession increasingly seem an unaffordable and pointless luxury. Like the bespoke tailors, the lawyers are seeing their business become the product of a standardized and commoditized delivery system. Off the rack suiting has long dominated the tailoring world. Off the rack legal services may soon do the same to our bespoke way of lawyering.

And at the other end of the client spectrum — the small start-up businesses and the working class and middle class families needing legal assistance — another set of legal entrepreneurs has stepped in. For some time local lawyers have used the web to tout their services: “We never take a fee unless we make money for you” folks. But increasingly, companies are coming forward on a national scale to deliver legal services in a packaged, commoditized way.¹⁹

One of the most prominent of these actors is LegalZoom.²⁰ Offering a range of standardized forms, along with local lawyer referrals, LegalZoom is displacing the more traditional direct relationship between these clients and the local solo or small group practitioners. From incorporation to trademark creation, wills and prenuptial agreements, LegalZoom offers services at a deep discount from the bespoke local lawyer’s fee arrangements.

If anything stamps an enterprise with market credibility, it is the presence of elite venture capital investors. LegalZoom recently raised \$66 million in additional capital from various venture capital firms including Kleiner Perkins.²¹ Not to be outdone, Rocket Lawyer, a fierce competitor includes among its investors Google’s venture capital arm.²² Rocket Lawyer offers various packages including its “Basic Legal Plan,” a pre-paid legal services package that includes access to all of its myriad legal forms as well as access to one of its “On-Call Attorneys” for any specific legal questions. The charge for this alternative to the traditional local lawyer’s engagement is \$10 a month for an annual plan.²³

No one can know for sure what the world of practice will look like in the decades to come. But in a world where labor cost arbitrage,

19. See Henderson, *supra* note 7, at 489.

20. See *About Us*, LEGALZOOM, <http://www.legalzoom.com/about-us>.

21. Leena Rao, *Eying an IPO in the Next Year, LegalZoom Raises \$66M from Kleiner Perkins and IVP*, TECHCRUNCH (July 24, 2011), <http://techcrunch.com/2011/07/24/eying-an-ipo-in-the-next-year-legalzoom-raises-66m-from-kleiner-perkins-and-ivp>.

22. Daniel Fisher, *Google Jumps into On-Line Law Business with Rocket Lawyer*, FORBES (Aug. 11, 2011), <http://www.forbes.com/sites/danielfisher/2011/08/11/google-jumps-into-online-law-business-with-rocket-lawyer>.

23. *Plans and Pricing*, ROCKET LAWYER, <http://www.rocketlawyer.com/plans-pricing.r1> (last visited Aug. 9, 2013).

coupled with various forms of packaging and commoditization of legal services, are driving down the costs of legal services to institutional clients, what contemporary global corporate client can afford not to turn increasingly to these legal entrepreneurs, and hence away from the traditional law firms with their artisanal modes of delivery? And in a world where an entrepreneur can get all the form documents she needs and a quick legal consult for anything they can't figure out at a cost equivalent to skipping their daily Starbucks run a couple of times each month, what does the future of hanging out your shingle and building a small practice from scratch look like?

This then is the ground moving beneath our feet in the world of legal practice. The next question is how Ethics 20/20 has responded to these seismic shifts.

III. THE COMMISSION'S WORK

Formal advocacy groups often arise around ways of making a living. Unions for the various forms of "blue collar" work, trade associations for manufacturers, realtors, and so on. These organizations often, if not typically, explicitly build their identity around core values — the very right to organization in the case of unions, free enterprise for manufacturers. And they often wield significant political power. But, the organized bar is unique in its character and history.

The history of the ABA and the other arms of the organized bar is a bigger story than I can tell in this essay. But, there is one theme that is especially important to a consideration of the meaning and effects of the work of the Ethics 20/20 Commission. Susan Koniak's seminal paper, published in 1992, entitled *The Law Between the Bar and the State*, explains how the organized bar has done more than advocate for its constituency.²⁴ The bar has demonstrated repeatedly a willingness to take a position in opposition to the state's law and to counsel its members to exalt the bar's vision of law over the state's counterpart. This is more than mere advocacy. The organized bar has counseled a form of "civil disobedience" by urging its members to follow its law rather than the law of the state.

Koniak provides a stunning example in the form of the organized bar's response to the Tax Reform Act of 1984, specifically, the provision of the tax law that required taxpayers to report cash payments of \$10,000

24. Susan P. Koniak, *The Law Between the Bar and the State*, 70 N.C. L. REV. 1389 *passim* (1992).

or more.²⁵ The reporting requirements included the identity of the paying party and the amount of the payment. Criminal defense attorneys receiving such cash payments from their clients refused to provide the IRS with the names of the client and other information that the lawyers claimed were protected by the attorney-client privilege. In the face of this non-cooperation, the IRS sent letters to nearly a thousand lawyers demanding that they fully complete the IRS forms. When only a few lawyers complied, the IRS issued summonses to some of the resisters. When the lawyers still refused to provide the information, the IRS brought a test case in the federal courts. The standard hornbook rule is that client identity and fee information are not within the attorney-client privilege. The federal district court concluded that nothing took this case out of the general rule and enforced the summons. Yet, even after the court's ruling, lawyers continued to refuse the IRS demand and various bar groups supported their resistance. Even the Second Circuit's affirmance of the district court failed to quash the bar's resistance. Bar groups continued to advise their members that compliance with the state's law was ethically permissible only when a court specifically ordered that lawyer to comply.

The point of this story is that the organized bar consistently took the position of the tax law resisters — even to the point of urging the lawyers to disobey the state's law, at least up until the point that someone was going to jail for contempt. The state's law on the attorney-client privilege point was reasonably clear. And still the bar counseled resistance. In doing so, the bar turned upside down the conventional understanding of the hierarchy of the law governing lawyers. In the conventional understanding, federal law clearly trumps ethics law. But in the bar's vision, its law — the law of confidentiality — trumped all.

To lobby Congress for laws that benefit its constituency is the ordinary work of trade associations, unions, and other organizational bodies. But to counsel its members to disobey the state's law is the activity of a community that holds its law above the state's legal demands — the activity of those who would seek to bend the state's law to its will. This was the posture of the organized bar in the narrative of the tax law resisters.

This strong posture is neither unique to the organized bar nor is it inherently wrong conduct. After all, it is akin to the posture of the civil rights movement and the conscientious objectors of religious communities that have exalted their faith above the state's law —

25. *Id.* at 1405-07.

conduct that is widely admired and cherished as part of our nation's history.²⁶

With this backdrop, we may revisit the work of the Ethics 20/20 Commission. Its charge was to consider the effects of technology and globalization on the profession, propose amendments to the Rules and Comments to account for these effects, ostensibly for the purpose of maintaining the profession's core values in this new world of lawyering.²⁷

The precise story of the Commission's work is better known — and will be well told — by others at this Symposium. I come as a sort of “outsider” to the process. I am interested in the way in which the bar's posture in the Ethics 20/20 work diverges from the historical examples of the bar's contest with the state and why that might be so — and what difference this makes for the preservation of our core values. Of course, this time around the bar's competitor in the ring is the heavyweight of the market — not the state. We may see that this will make all the difference in the world.

The Commission's *Introduction and Overview*, submitted to the House of Delegates in August 2012, acknowledges the massive changes that are happening and the rapidity of that change.²⁸ Noting that the last major review of the Model Rules had concluded in 2002, the Ethics 20/20 Commission notes that “[t]echnology and globalization have transformed the practice of law in ways the profession could not anticipate in 2002.”²⁹

At the same time the Commission concluded that the basic principles of the Model Rules remain “relevant and valid.”³⁰ Thus, they described their proposals as “clarifications and expansions” of the already existing legal structure of the Rules — not a radical reconstruction.³¹ A brief summary of the relevant proposals will bear out their description.

The Commission's proposals can be grouped into two categories for our purposes. First, some of the proposals truly are simple clarifications or amendments designed to take account of new practice tools. For example, the changes proposed and adopted regarding

26. See, e.g., Nanette Byrnes, *Hundreds of Pastors Back Political Candidates, Defy Tax Rules*, REUTERS (Oct. 7, 2012), <http://www.reuters.com/article/2012/10/08/us-usa-tax-pulpit-idUSBRE89700E20121008>.

27. ABA Commission on Ethics 20/20, *supra* note 1, at 1.

28. *Id.*

29. *Id.*

30. *Id.* at 7.

31. *Id.*

“Technology and Confidentiality” are essentially what I would consider relatively straightforward housekeeping changes — making sure that the Rules governing confidentiality explicitly fold in electronically stored information or the reminder that any use of a screening mechanism to resolve a conflicts issue must include taking steps to screen the tainted lawyers from electronic information as well as hard copy files.³² I do not mean to suggest that these are unimportant or undesirable changes. But they are not really addressed to the seismic forces reshaping the profession.

The second category includes proposals that address — or might have addressed — the activities of the new legal entrepreneurs. This, at least for our purposes, is the more interesting terrain.

At the top of this list are the proposals under the title “Technology and Client Development.” In particular, the viability of sites such as LegalZoom and Rocket Lawyer depend upon a reasonably unfettered deployment of their interactive websites to develop and service their clients. Thus, this domain of the Commission’s work engages, or potentially engages, one of the significant forces sweeping across the legal landscape.

None of the proposed changes to the Model Rules in the category of “Technology and Client Development” would seem to pose any real roadblock to the growth of these internet-based legal entrepreneurs. For example, the lawyer referral aspect of these businesses typically depends on fees paid by the local lawyers to the internet company. The Commission’s changes to the Comments to Rule 7.2 emphasize that internet “lead generators” must also comply with the longstanding rule that such lead generators must not “recommend” or vouch for the qualifications of the lawyer.³³ LegalZoom’s website thus contains the standard boilerplate, bottom-of-the-page fine print to the effect that it is not a “lawyer referral service,” is not recommending any of the lawyers or law firms with whom they connect the client, etc.³⁴ Problem solved.

The Commission’s treatment of “Outsourcing” has a similar conciliatory tone. The Commission essentially embraces outsourcing, recognizing the efficiencies and advantages of the phenomenon.³⁵ The

32. *Id.* at 7-9.

33. *Id.* at 10.

34. “LegalZoom does not endorse or recommend any lawyer or law firm who advertises on our site. We do not make any representation and have not made any judgment as to the qualifications, expertise or credentials of any participating lawyer.” *Business Legal Plan*, LEGALZOOM, <http://www.legalzoom.com/attorneys-lawyers/legal-plans/business.html>.

35. See ABA Commission on Ethics 20/20, *Report to the House of Delegates: 105C*, 2 (August 2012), available at <http://www.americanbar.org/content/dam/aba/administrative/>

proposed changes, essentially all changes only to Comments, would seem to do nothing to inhibit the escalation of outsourcing, both domestically and globally. (In fact, it's easy to imagine that the Pangea3 website will soon edit its page on the "blessing" of outsourcing in the ABA's 2008 Ethics Opinion to include the ABA's endorsement of outsourcing in its Ethics 20/20 work.)

To my "outsider's" eye, this all looks like an essential capitulation to the realities of the market, in effect a "blessing" by the ABA of the brave new world of lawyering coming. Thus it stands in sharp contrast to the posture of the ABA in the historical examples noted earlier. Two reasons for this different posture seem possible. First and foremost, the force of the global market may be essentially irresistible. What coherent strategy of resistance is conceivable here? And second, the organized bar does not seem to see these changes as posing the same threat to its core values it did when the state demanded disclosures of confidential client information. And as the Commission observes, many of these changes may increase efficiency, lower costs, and even improve quality. Also, the rise of LegalZoom and Rocket Lawyer may increase access to legal services to currently underserved constituencies.

Thus, my point is not that the ABA lacked the will or courage to do what was right here. These may well be sensible responses. Moreover, resistance here may well be pointless. After all, it is one thing to take on the state; it's another to try and stand in the way of the market. But what in fact this all means for the core professional values that the Commission was charged to preserve is another matter.

IV. THE PROFESSION'S CORE VALUES

For the first time in nearly 40 years of professional life, I believe that the next generation of "lawyers," and the "law schools" that educate them, will differ meaningfully from what we know now. Many of these changes may well be to the good. For example, it is possible that law schools will undertake a meaningful reform of their educational program that ends up better educating the young lawyers. For the first time, middle class, and even working class families may have meaningful access to legal services. Many good things may come. And the bar's facilitation of these changes may well turn out to be a wise thing.

But one thing nags at me as I ponder the contours of a world of lawyering increasingly dominated by massive global legal service

providers and “On-Call Attorneys” and ready access to standardized forms that run the gamut of basic legal needs. Where in this world of lawyering exists the “relationship” between the lawyer and client?

The traditional core values of the profession begin with confidentiality and loyalty. A range of collateral duties exists surely, competence, communication, and others. But the values by which we have defined our station in life are the intertwined values of confidentiality and loyalty. These values draw coherence and meaning from the lawyer-client relationship. For example, the duty of confidentiality — and its companion in the law of attorney-client privilege — are built upon the idea of client trust in the lawyer.

Similarly the conception of loyalty entails commitment to the client. This conception draws coherence from a relationship between the lawyer and client. The client’s trust and the lawyer’s commitment to the client are the DNA of the lawyer-client relationship. To imagine a form of practice that lacks that relationship is nearly incoherent.

Yes, practice environments currently exist in which the relationship is either absent or diffused. For example, long before the Mumbai-based outsource companies arose, young lawyers were stuck away in windowless rooms doing tedious document review work. No client contact, no relationship. But somewhere in the firm, a lawyer was interacting with the client in a way that embodied the conceptions of loyalty and commitment.

It is also true that entity representation poses a different construct than the representation of individual clients. Still, the relationship between the law firm partner in the outside firm and the corporate constituents with whom she interacts provide the opportunity for meaningful relationships embodying trust and commitment.

And so I must wonder what form of “relationship” arises when the legal services are provided by globally based “Project Teams” or by whichever “On-Call Attorney” pops up on the Rocket Lawyer assignment sheet?

I understand that nothing about these new forms of delivery of legal services necessarily precludes confidentiality or loyalty to clients. In fact, it may be that confidentiality will be more easily maintained when the data spends less time in human hands. After all, those algorithms of the “predictive coding” world are not going to be gossiping about their clients’ affairs at Happy Hour. As to loyalty, certainly the global providers can be as relentlessly focused on the client’s interests as any traditional lawyer would be — in theory at least. And still.

Time outwits us all. We cannot predict what our brave new

professional world will look like — or even if we are in fact headed to some radically different world of lawyering. But if the changes do come, and if those changes truly transform our professional world, and if part of that transformation is the loss of a form of lawyer-client relationship that has historically been our professional DNA, this will matter. How it will matter and whether those effects are to be deemed desirable or not, we cannot know. But in the context of radical change along the lines that seem to be developing, the idea that our core professional values will remain in a constant and familiar form — trust and commitment fully embodied in a meaningful lawyer-client relationship — seems like wishful thinking to me.