# Five Tips for Prospering in an Age of Legal Fee Deflation

**By Marc Lauritsen**
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**M**any lawyers feel like an endangered species. Forget the werewolf in London. There's a werewolf in the legal industry too busy eating your lunch to hang out at Trader Vic's. Even lawyers who still have a job feel downward pressure on fees. Competition seems overbearing, both within the profession and from without. Clients, pinched themselves, demand price concessions. The upshot? Brace yourself for a sustained period of fee deflation. How can your law firm prosper in this environment? Document automation and knowledge management expert Marc Lauritsen has some good news and bad news. The bad news is that there's no silver bullet that can save your law firm and kill the werewolf. The good news is that by following Marc's five-step plan you can outrun the werewolf, pull a 180, and stick your tongue out at him.

## INTRODUCTION
If you are like most lawyers, your time is worth less — at least as measured by the willingness of clients to pay. For many, the amount of well-paying work is shrinking. The legal profession is being squeezed by alternative providers, such as legal process outsourcers and Legal Zoom, and by lawyers with lower overhead delivery methods, such as virtual offices. Prices drop when substitutes emerge with more efficient means of production. Online bidding and lawyer rating sites will accelerate the trend.

Alternatives to time-based billing are gaining ground, as lawyers realize they can make more *per* hour by not charging *by* the hour. But alarmingly, some legal work, regardless of how efficiently performed, is becoming worth less in the minds of consumers. In addition to fee de*flation*, we may be facing a fundamental de*valuation* of attorney effort. This trend goes beyond a temporary lawyer surplus stemming from a dip in aggregate demand. Legal work — *done as most lawyers have been doing it* — is losing appeal.

Some new entrants disparage traditional legal service models. Some in the bar are inclined to push back by alleging ethical violations or the unauthorized practice of law. A better strategy is to emphasize our distinctive values and to outperform the competition by delivering compelling benefits. There are a lot of people who will happily pay lawyers reasonable prices. Society needs a healthy legal profession.

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## THE TRENDLINE
Tough economic times have shown consumers of legal services how willingly lawyers discount prices. And they've shown law firms that associates are willing to work for merely generous salaries. As a collective shudder ripples through our market, deflation is a self-fulfilling phenomenon. Pricing opaqueness has long since vanished.

There are also more law-related startups now than any time since the dot-com boom, many run by lawyer-entrepreneurs determined to disrupt the status quo. Smart capital is seizing opportunities to exploit weaknesses in the mainstream delivery system. These startups exacerbate the crisis for some, while providing salvation for others. Expect the dual hump in the lawyer income distribution curve as explained by Adam Smith Esq. three months ago to intensify.

Legal trade publications are again abuzz with a sense of unfolding transformation in global legal services. The pundits are chronicling this story. Here in this TechnoFeature article I'd just like to offer five "up and down" recommendations regarding legal technology.

## 1. LOCATE THE PRACTICE AREAS PRONE TO DISRUPTION
First, brush up on the extent to which your part of the law business might be disrupted. Look around at who's offering, or could offer, the kind of work you perform. Don't limit yourself to the usual suspects. Study the competitive landscape.

When you see transformations coming that can undermine your business, find a way to get on the winning side of them, or switch gears — fast. Early awareness is key.

Consider especially (1) what portion of legal work in your practice could cost-effectively be accomplished by modern software, and (2) what portion of that portion presently is being so accomplished. The former is always growing as new technologies emerge and people gain comfort and proficiency. The latter is mostly a matter of good management and strategic insight. Take an honest look at your "latent systemization potential" — how much more effective you could be by deploying better systems. If that potential is high, you're not only missing opportunities, you're vulnerable to displacement.

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## 2. BREAK DOWN LEGAL SERVICES INTO COMPONENTS

There are no standard units of legal work, as exists for other services (e.g., cataract surgery). But it is possible to deconstruct legal work into more elementary pieces, and to discover components amenable to delegation and systemization.

For example, there are many well-defined service bundles, such as incorporating a company, drafting a will, obtaining an uncontested divorce, or closing a real estate transaction. Even large, complex matters contain fungible components.

You can classify what lawyers distinctively do in terms of three A's — analysis, advice, and advocacy. If something doesn't fit into one of those categories (like factual investigation, information retrieval, or form filling), there's a good chance someone or something other than a lawyer can do it more cost effectively. Of course, some lawyers earn huge fees delivering another "A" — access to scarce information, private networks, and levers of public policy — but lobbyists can perform that work as well or better (at least for a while).

Similarly, you can classify most of the work product lawyers *produce* in terms of three D's — decisions, documents, and deals (broadly understood as settled legal arrangements such as agreements, institutions, legislation, and judgments.) Each of these deliverables can be produced more effectively with knowledge-based technology.

## 3. TOOL UP WITH DOCUMENT ASSEMBLY AND OTHER TECHNOLOGIES

We're surrounded by technology these days, but much of it can be found in almost any office setting. Specialized tools that assist at the core of law practice offer more strategic advantage. Working on that part of your tool kit can pay major dividends.

Many substantive legal technologies exist. My own favorite remains document assembly, which is both dramatically useful and dramatically underused.

The industry is well established. In addition to mature leaders like ContractExpress, Exari, HotDocs, and Rapidocs, dynamic new players continue to enter the market, such as Brightleaf, WordFusion, and XpressDox. There are also fascinating new approaches, like those of Kingsley Martin at Kiiac and Jim Hazard at CommonAccord.

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Artificial intelligence is experiencing a resurgence, in part due to IBM's Watson, which can beat human contestants at Jeopardy. Its Deep Question Answering technology is now being applied to medicine, law, and other fields. In the legal world, Neota Logic is fielding its own kind of expert applications, and the 2011 International Conference on Artificial Intelligence and Law is taking place this week.

As the process outsourcers and document preparers are showing us, advanced tools can help people with important legal work even when there are no lawyers at the controls. For at least the near future though, it's better to have a trained legal professional in the loop. On a level playing field, lawyers are best suited to provide legal services by dint of their training, experience, and ethical regulations. With opti-

mal tools, billing practices, and marketing techniques, they can thrive even in an era of general fee deflation.

Simply put, you can profitably deliver great value at a competitive price by working less expensively.

## 4. DELEGATE LEGAL WORK THAT BECOMES GRUNT WORK

The good news is that you can complete much core legal work more effectively by delegating parts to less specialized personnel, and to our increasingly intelligent machines. This strategy includes putting systems directly in clients' hands for self-help and co-production.

Organizations used to pay "human computers" to compile things like ballistics tables. Lawyers used to get paid to manually redline differences between documents. We've all seen how certain kinds of work can be radically streamlined.

However the legal marketplace may evolve, it seems clear that strategic advantage will flow from getting substantive legal work done as effectively as possible. Too little attention is yet being paid to the specialized systems that can boost effectiveness. We need to stop using technology just at the periphery of lawyer activity.

Tools that resonate with the core structures of legal knowledge work perform best in the hands of lawyers who are reflective about its systemization. The future will belong to those who can choreograph optimal distributions of work across teams of humans and non-biological assistants.

## 5. THINK LIKE A PROGRAMMER

Our legal institutions suffer from four related ailments:

- Lawyers aren't getting enough work.

- People who need legal help are going without.

- Law students aren't being prepared for reality.

- Law schools are in danger of obsolescence.

This is a *systemic* problem, a vicious cycle. Law graduates aren't primed to practice effectively. Consumers are alienated by legal fees. Struggling prac-

titioners are disengaged from improving legal education. Etc. You can't just fix one of these interrelated components.

An "Apps for Justice" proposal was presented at the recent Future Ed conference at New York Law School. The idea is to radically expand the number of schools that offer courses in which students build useful applications like dynamic questionnaires and document templates as part of their education. It received enthusiastic support from an audience of deans and professors. Imagine a rising generation of tech savvy practitioners, aggressively wielding intelligent tools. Do you want to be among them, or watching from the sidelines?

Seek to discover how much more effectively your work *can* be done, because soon someone *will* be doing it that way. If much of what you do can just as easily be done by those who are not professionally trained, or even by machine, you're living on borrowed time. Take some of that time to better equip yourself. Legal knowledge technology is not a silver bullet. But it's an essential weapon. Step up and get with the program.

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