Numbers don’t lie; people spending money on things other than lawyers

Remember the old adage that those who chose to become lawyers are people who didn’t like blood or they didn’t want to go to med school, and didn’t like numbers so they didn’t want to go to business school? Forget about it.

The world is so complex now, and data is so prevalent, that numbers should be a lawyer’s best friend. We would be well-served to garner and analyze data to understand what’s going on in the legal profession and fashion solutions to better serve our clients and potential customers.

Court filings are down

A big data point we need to understand is why lawyers aren’t filing cases in court as often as they once did. The “Landscape of Civil Litigation in State Courts,” a 2015 study published by the National Center for State Courts compiled data from more than 925,000 cases disposed of in state courts in the 10 large counties that encompass major U.S. cities, including Chicago.

The study researchers identified 228,000 cases disposed of between July 2012 and June 2013 that resulted in a monetary judgment of less than zero. The median judgment amount was only $2,441. Unsurprisingly, given that judgment amounts, only 24 percent of cases had attorneys representing parties on both sides of the dispute. In other words, three-quarters of the cases involved a self-represented litigant.

Here in Illinois, as reflected in the Illinois Supreme Court Annual Reports, civil filings have declined 32 percent over the last 20 years, from 634,000 to 430,000. (Since 2009, the number of civil filings has dropped almost 46 percent, from 791,000 to 430,000.) Yet, over the past two decades, the Illinois state population grew from 11.9 million to 12.8 million people.

And self-represented litigants are rising in Illinois. According to the Illinois Supreme Court Commission on Access to Justice, in 2015, 92 of Illinois’ 102 counties reported that more than 50 percent of civil cases involved a self-represented litigant on at least one side. In some case types, that number rose as high as 80 percent.

Much of this is discussed by professor Bill Henderson of Indiana University, an expert on legal markets, on his Legal Evolution blog. Henderson predicts that it is likely that the volume of state court filings is on a significant downward trajectory.

“The reason is simple — lawyers won’t file cases where they know, upfront, that they can’t recoup the value of their time. Further, going to court without a lawyer is a daunting prospect most citizens would prefer to avoid. Thus, the lower the case values, the fewer the case filings and the higher the volume of default judgments.”

This poses a problem for a system predicated on efficient and fair resolution of problems and filings and the low judgment amounts. There is other data that shows individuals (as opposed to corporate clients) are not seeking legal services as they once were. They are turning away from us.

The U.S. Census Bureau compiles a five-year measure of business called the Economic Census that compares the receipts of U.S. law firms in 2007 and 2012 based on “class of customer” data. Total law firm receipts increased from $225 billion to $246 billion over those five years. But over those five years, receipts from individuals declined by almost $7 billion.

In addition, the Bureau of Labor Statistics compiles data that shows how consumers adjust their spending as the relative prices of goods and services change. The adjustments consumers make are monitored through the bureau’s semiannual Consumer Expenditure Surveys. Comparing consumers’ spending on legal services to spending on other big items that affect life and future, such as medical care and college tuition, is instructive.

First, the cost of legal services has been generally on a par with medical care from 1987 through 2016. However, the cost of college tuition increased at a significantly greater pace during that time period.

In 1987, legal services made up 0.435 percent of the CPI-U. (CPI-U refers to the Consumer Price Index for urban settings; 89 percent of the U.S. population qualifies as urban.) By December 2016, the proportion had dropped to 0.245 percent.

Meanwhile, medical care went from a CPI-U of 4.8 percent in 1987 to 8.5 percent in 2016. College tuition skyrocketed from a CPI-U value of .84 percent in 1987 to 1.81 percent in 2016.

The change in the CPI-U index for legal services was negative 44 percent whereas the change for medical care was positive 77 percent and for college tuition a whopping positive 120 percent.

As anyone who has had to write college tuition checks knows, the cost of sending our children to college is gut-wrenching.

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We need to fix this. The world is becoming increasingly complex. Our profession exists to serve the people. We need new and efficient ways to deliver legal work.

This is why the Commission on Professionalism sponsors an annual future law conference. This year it is May 2 in Chicago. Come and consider some solutions.