

## **Draft Chapter**

**By Richard Granat and Stephanie Kimbro**

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### **Serving Clients of Moderate Means with On-Line Legal Services**

#### **Introduction**

One method of serving clients of moderate means at fees they can afford is to provide legal service on-line. An increasing percentage of prospects for legal services at all income levels are turning to the Internet for legal solutions and guidance. Lawyers need to address a changing client base that relies on the Internet to handle a growing majority of its day to day business. Accordingly, it is imperative that lawyers learn how to integrate web-based methods of legal services delivery into their law firm business models. This chapter will discuss what is meant by “on-line legal services”, introduce the methods that law firms are using to deliver on-line legal services, with a particular focus on serving clients of moderate means, and discuss the benefits and limitations of this approach. We will also identify the costs to implement an on-line legal services strategy and how solos and small law firms can incorporate these approaches in their law practice. In conclusion, this chapter will also consider how on-line delivery will play a role in the future of legal services.

#### **What is on-line legal services delivery?**

The idea of on-line legal services delivery can be traced to the early days of the Internet when such early law firm web sites such as <http://www.visalaw.com> first appeared. On-line legal services, is referred to as “virtual lawyering” or “elawyer.” These terms are used interchangeably to describe this new development in the delivery of legal services.

On-line legal services is also an attitude about how to build a law firm business model which exploits web technologies for competitive advantage and can help in differentiating one law firm from another in what is becoming an increasing competitive environment. The core of this business model is a law firm web site that incorporates interactive and web-enabled applications that supports interaction between lawyer and client within a “client portal”.

The eLawyering Task Force of the Law Practice Management Section of the ABA defines the client portal as the primary feature of the virtual law firm that enables the delivery of legal services on-

line.<sup>1</sup> A “client portal” enables access only with a unique username and password that the client uses to enter into his or her own secure account website within the attorney’s virtual law firm. This client-specific portal where the client and attorney interact is unique to virtual law practice and is the key to differentiating it from other web-based services and companies offering legal documents to the public on-line. The law firm’s web site now becomes a “Website on steroids” because it becomes the major way that the law firm works with and communicates with their clients and also becomes a platform for delivering legal services on-line. Within the “client portal” communication and collaboration that is encrypted and totally secure can take place, but in addition legal service applications can be launched such as web-enabled document automation and web advisors which are digital tools that increase the law firm’s productivity and enhance the user experience.

A virtual law practice has been defined as one in which[the ].... method of delivering legal services to clients on-line. It is a professional law practice that exists on-line through a secure portal and is accessible to both the client and the attorney anywhere the parties may access the Internet. The attorneys and their clients have the ability to securely discuss matters on-line, download and upload documents for review, create legal documents and handle other business transactions related to the delivery of legal services in a secure digital environment. A virtual law practice has been termed the following ways: virtual law office or VLO, virtual law firm, web-based law practice or on-line law practice.<sup>2</sup>

Client portals are not a new concept. Larger law firms have provided this form of access to clients for years now in the form of client extranets. These client portals are custom made for the firm by their IT specialist. However, today the trend has grown to include different forms of client portals that are available through cloud-based applications and affordable as client development tools for solos and smaller-sized law firms.

Regardless of which features the client will be able to use once logged into the client portal, each of these web-based technologies requires that the client first register on the firm’s website and then select a unique username and password to use when accessing the interface. The client may then have access to his or her own case file or secure account page with the law firm. Most clients are familiar with the registration process and sign-in procedure from their experience with on-line banking, on-line brokerage, and on-line travel. Client portals within law firm websites operate similarly and with the same high level of security and encryption that is required of government and banking facilities for their on-line users.

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<sup>1</sup>Suggested Minimum Requirements for Law Firms Delivering Legal Services Online, eLawyering Task Force, Law Practice Management Section of the American Bar Association, October 15, 2009, [http://meetings.abanet.org/webupload/commupload/EP024500/relatedresources/Minimum\\_Requirements\\_for\\_Lawyers\\_2009\\_10\\_24.pdf](http://meetings.abanet.org/webupload/commupload/EP024500/relatedresources/Minimum_Requirements_for_Lawyers_2009_10_24.pdf) (accessed February 27, 2011).

<sup>2</sup> Kimbro, Stephanie. *Virtual Law Practice: How to Deliver Legal Services Online*, American Bar Association, Law Practice Management Section, October 2010.

Client portals are a necessary feature for a virtual law office, but they may also be used without the existence of an on-line backend law office that is maintained by the firm. Features that might be accessible to the clients once inside the client portal might include any of the following: reviewing invoices and paying for legal fees on-line, reviewing the status of their case matter, scheduling appointments with the law firm, uploading and downloading documents and files, text-based and threaded communications with members of the firm, on-line client intake forms and other on-line forms programs that are part of a document assembly and automation feature used by the firm in creating legal documents.

Attorneys interested in adding a client portal to their firm's website should look for a web-based product that includes a high level of encryption. A client portal that incorporates the use of unencrypted email between the firm and the client may not be as secure as an application that has end to end encryption and contains the communication in a single application protected by the client's unique username and password.

With a "secure client portal" integrated into a law firm's web site the law firm is now ready to enter into the world of legal services on-line.

### **Consumer Benefits of the On-line Legal Services Approach**

Consumer behavior as related to the consumption of legal services is changing largely because of the experience that consumers have in purchasing other services over the Internet. Using sites that range from ITUNES, to Amazon to EBAY to Expedia, consumers have learned to expect in the execution of their on-line transactions:

- Speed;
- Excellent customer support;
- The benefits of Internet technology translated into lower pricing;
- Convenience; and
- Transparency

In the legal market place this means, clients want:

- Information on what their case is going to cost;
- An idea of how long will their case take;
- Progress updates on their cases;
- Prompt response to letters and phone calls; and
- Prompt responses to their complaint(s).

Clients also want legal advice and legal services to be delivered

- On-line; by phone; and even by text;
- Out of hours - not just the traditional 9:00 to 5:00;
- Linked to related services, such as the purchase of a home; and

- Together with unbundled and DIY legal services.

From the consumer's perspective, the system for delivering legal services needs to be re-designed to conform to their values by creating a new value proposition. A new value proposition could involve elimination of the need to go to the lawyer's office, increasing speed of the transaction, and offering services at a flat fee. It is a waste of marketing dollars to market legal services to consumers who don't want legal services in their present form. Marketing is more than just "selling" or getting the word out about your law firm; or publishing a web site that is a bit more than a Yellow Pages advertisement; or radio and TV commercials that make claims about what a great law firm you are. You can't sell a product or service to a consumer if they don't want to buy it.

Market research provides support that clients want:

1. Fixed pricing, rather than pricing by the hour. The lack of transparency in lawyer pricing creates tremendous anxiety on the part of consumers. A consumer can get a fixed price from a home builder to build a \$1,000,000 house (with allowances for unforeseen circumstances), but can't get a fixed price from a lawyer for a relatively simple divorce.

2. Increasing productivity of the legal transaction and passing the savings on to the client. Consumers suspect that lawyers are using information technology to increase their productivity by automating more routine legal tasks such as document production. Clients resent the fact that productivity enhancements are not passed along to them in terms of lower prices. Without competition from other kinds of providers, the legal profession has no incentive to lower prices. Instead, consumers are turning to non-lawyer alternatives such as LegalZoom.

3. Compounding the lack of transparency of lawyer-client transactions and the increasing level of fees is the inconvenience of communicating and working with a lawyer. While it is necessary to appear in a doctor's office for a physical examination, it is not necessary to be physically present in a lawyer's office in order for the law firm to do its work. Yet the prevailing mode of doing business requires that the client give up half a day of work or more and travel to a lawyer's office for advice at the lawyer's convenience, not the consumer's.

The pressures to change the patterns of delivery of legal services for consumers will increase dramatically in the next few years, as a "connected generation" comes of age. The pressure to change applies will come from not only clients of moderate means, but from an entirely new generation of clients that have the Internet in their "DNA". This new generation clients play, communicate, socialize, consume, invest, and learn on the Internet, not only on their desk-top computers, but increasingly on their mobile smart phones.

Whatever trends are now in place will accelerate over the coming years as "the connected generation" comes of age and matures into the age where they need legal services. The "connected

generation” includes those born since 1970. It is this generation that has grown up on the Internet and looks to the Internet first, before checking the Yellow Pages, reaching for a telephone, or consulting with a professional face-to-face.

Statistics further indicate the continued growth of ecommerce, particularly the increase in the percentage of consumers who used search engines in their search for online legal assistance. A January 2009 Google Touchpoints Consumer Survey found the following percentages related to the legal industry:

- 74% of consumers find a law firm’s website;
- 64% discover legal services or law firms they were unfamiliar with;
- 39% find comparisons of similar law firms;
- 24% find out the best offers from law firms; and
- 38% find independent reviews of law firms or attorneys they were considering

Furthermore, according to Forrester, e-commerce will continue to grow as factors including ease of accessibility and changing demographics of online users help support this growth. By 2013, the estimated US online retail sales will reach \$299 billion at a compound annual growth rate (CAGR) of 10% over a five –year forecast period.<sup>3</sup>

### **Benefits to Law Firms of Delivering Legal Services On-line**

The benefits of delivering legal services online will vary depending on the technology and structure that the law firm has chosen. Some of these benefits might include the following:

- Lower overhead
- Eco-friendly, paperless, less office waste
- Greater work/life balance and flexibility
- Ability to expand client base across jurisdictions; competitive advantage
- Flexibility to transition between different phases in life and career to meet professional and personal needs
- Tap into a broader market of consumers seeking legal services
- Serve as an amenity for existing clients of a traditional law practice
- Added security of hosted backups and other cost-effective benefits of using software as a service (SaaS)
- Lessen malpractice risks through the use of technology to automate checks
- Streamline administrative features of a law practice to permit the lawyer to focus on the actual “practice” of law.

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<sup>3</sup> *US Online Retail Forecast, 2008-2013*, Evans, Patti Freeman, updated March 4, 2009, Forrester Research, Inc.  
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(List of benefits excerpted from *Virtual Law Practice: How to Deliver Legal Services Online* by Stephanie L. Kimbro. Copyright 2010 American Bar Association)

## Structures for On-line Delivery

Law firms are coalescing around two different models for on-line legal services delivery: (1) the “pure play” virtual law firm and (2) the traditional law firm that adds a virtual component.

### 1) The “Pure Play” Virtual Law Firm

The “pure play” virtual law firm is a law firm that does not have any physical office and clients are never seen face-to-face. Examples of this include our own virtual law firms at: <http://www.kimbrolegalservices.com> and <http://www.granatlegal.com>.

Richard Granat’s virtual law firm at <http://www.mdfamilylawyer.com><sup>4</sup> was one of the first virtual law firm’s in the United States and the first one in the State of Maryland, where he is a member of the bar. Launched in 2003, [www.mdfamilylawyer.com](http://www.mdfamilylawyer.com) is focused on serving “pro se” parties in divorce and family law matters. The firm was an outgrowth of Granat’s work on a state wide task force, sponsored by the court system, to create a standard set of family law forms in divorce, child support, visitation, modification of visitation and child support, and domestic violence abuse. Granat also wrote a book that was published in 2002 on “How to Do Your Own Divorce in Maryland,” and then automated the forms using a web-based document automation system so that all clients would have to do would be to complete an on-line questionnaire, with the document automation solution generating essentially a first draft of the forms ready for lawyer review, and advice, and revision if necessary. Granat also automated a Marital Separation Agreement, which was a document not available from the court system. The documents were offered bundled with legal advice for a fixed price, which is an advantage over the “flat” non-automated forms distributed by the court system for free and the courts do not provide any legal advice.

The site was marketed both on-line and off-line through community groups and agencies that deal with couples in the process of going through a divorce. The site was also listed in many law firm directories, some paid and some free, to increase visibility. These directories include, The Nolo Law Firm Directory<sup>5</sup> and AVVO<sup>6</sup>. The practice is limited to non-contested family cases. If there is a conflict between the parties, the case is referred out by Richard to a group of law firms focused on family law issues who provide full service representation.

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<sup>4</sup> See the virtual law office of Richard Granat at <http://www.mdfamilylawyer.com> (last accessed April 25, 2011).

<sup>5</sup> <http://www.nolo.com/lawyers/> (last accessed April 26, 2011).

<sup>6</sup> <http://www.avvo.com> (last accessed April 26, 2011)

Fees are set low to compete with the non-lawyer web sites such as LegalZoom<sup>7</sup>. As a result for this model to work, there needs to be sufficient volume to cover all costs and to make a decent profit. Twenty divorce actions a month at an average fee of \$275.00 generates approximately \$5,500.00 a month in revenue, or about \$66,000 annually. Major cost factors are pay per click marketing on Google which amounts to 15% of gross revenue, hosting and telephone costs which run \$3,000.00 a year, plus paralegal assistance which averages 300 hours a year at \$20.00 an hour or \$6,000.00. It can take up to six months to get good search engine placement, plus paying for pay per click advertising, which increases visibility almost immediately, but the costs of pay per click require capital, which many solos and small law firms don't have. After all costs, the site nets approximately \$45,000.00 a year, which is a good return for a part-time practice. Granat actually operates the site from Palm Beach Gardens where he lives and doesn't have any face to face meetings with clients. He estimates that he spends approximately an hour on each transaction and that if he didn't have access to a document automation solution, the time spent creating the forms would be much higher and the return much lower. If you assume that Granat spends 250 hundred hours a year on the practice, and the practice nets \$45,000.00 that works out to \$180.00 an hour, which for this kind of work is a reasonable rate.

All communications are conducted through a secure virtual law firm platform, telephone, or Skype. Granat says that "the site works because it has been up a long time and therefore has excellent search engine placement, reducing the need for a higher pay-per-click advertising campaign. Links from other community sites in Maryland also help a great deal in building traffic." He also says that this "pure play" virtual law firm model has limitations and if he were doing this full time, he would combine the virtual component with a traditional office based practice. Granat thinks that each law practice is unique and just because a model works for one lawyer, doesn't mean that it can be easily replicated in another environment because of the many factors that contribute to success.<sup>8</sup>

For example, both Granat and Kimbro see recent law school graduates embracing the virtual law firm concept because they can't find a job and see this alternative as a transitional path before finding a full time position with a traditional law firm. This "half-hearted" approach often leads to failure as the recent law school graduate neither has the working capital, experience, or reputation as an attorney in a specialty that is necessary to make the "pure play" virtual law firm model work. New lawyers who recently passed the bar who want to pursue the "virtual law firm" model, need to consider a broader marketing strategy that involves some pro bono work, networking among more experienced lawyers and community groups, and face to face contact with clients which contributes towards building a referral base. The optimal model, particularly for new lawyers, is the combination of a virtual presence with more traditional face to face lawyering with clients. [See discussion below on "constraints to delivering legal services online" ].

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<sup>7</sup> <http://www.legalzoom.com> (last accessed April 26, 2011)

<sup>8</sup> See "Successful Virtual Law Practices" at <http://www.directlaw.com/success-factors.asp> (last accessed April 25, 2011).

Stephanie Kimbro's virtual law firm provides unbundled estate planning and small business legal services to clients who are in the lower to moderate income range. She uses fixed fee billing and provides clients with the option of paying their invoices through a payment plan to spread out the expense for legal services and make it easier for clients to budget their legal needs. Kimbro works from a home office or from other remote locations and does not meet with her clients in person. The cloud-based technology she uses provides her with the administrative features of an online backend law office and provides her clients with their own a secure account page with features that enable them to communicate effectively with her to receive legal services. At the request of clients or when it is necessary to speak with a client outside of the virtual office environment, she will schedule a video or web conference with desktop sharing if necessary or simply a phone call with the client. However, the majority of her work with clients is text-based and through the secure client portal and workspace.

One of the primary reasons that Kimbro formed a "pure play" virtual law firm was to create a better work/life balance for herself as the mother of two young children. She originally worked in a small, traditional brick & mortar law office that charged clients on the billable hour method but found that it was not cost-effective to use this model of law practice to serve the many moderate income individuals who would come through the traditional firm requesting legal services. These individuals could not be directed to legal aid services because they did not qualify but could also not afford the cost of retaining a traditional attorney or law firm to meet their needs. The virtual law firm model not only permits Kimbro to provide legal services to this unmet group of individuals, but it also provides the opportunity for her to select which hours of the day she devotes to the practice of law and gives her the flexibility to design and operate a business model that will grow and adapt as her legal career develops.

For another example of an attorney operating a "pure play" virtual law office, Rania Combs is an attorney licensed to practice law in the State of Texas.<sup>9</sup> She lives in North Carolina and has a home office where she works with her clients online through her virtual law office to provide Texas estate planning and trust law services. Rania uses technology to speak with her clients, who are mostly based in Texas, over video conferencing as well as within the secure client portal. She worked with the State Bar of Texas ahead of time to approve her virtual law firm model and to approve the disclaimers and design of her firm website.

Other attorneys who have spouses who are stationed in the military or who may have to move frequently from state to state are considering the use of a virtual law firm to allow them to continue to serve clients whose needs they are licensed to address. While the residency requirements and bona fide office rules of certain state bars may be restrictive of this flexibility, there are attorneys out there who are experimenting with multijurisdictional virtual law firms and forming networks of virtual lawyers to address regulatory barriers to online delivery, such as choice of law and UPL. Some of these more creative models are in conjunction with a traditional law office structure or are using rented office space on an as-needed basis to meet with clients spread across the state or country.

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<sup>9</sup> See the virtual law office of Rania Combs at <http://www.texaswillsandtrustslaw.com/> (last accessed April 13, 2011).



This virtual law firm structure works best when the lawyer has a specific narrow specialty and is able to get excellent search engine placement for its law firm web site. It also works well for a client base that doesn't require face-to-face interaction, does not have difficulty reading or processing text, or has any kind of a language disability. Without excellent search engine placement, the law firm's site cannot be found which results in no prospects and no conversions to new clients which obviously results in no revenue. The alternative is to mount a Pay Per Click campaign through the search engines which can be prohibitively expensive for a small law firm.

## **2. Traditional Law Firm with a Virtual Component**

The second structure is the traditional law firm that is already well established in a local community, or intends to become well established, and which adds a "client portal" to serve existing clients more effectively. This firm is also able to use their existing reputation with existing clients to leverage their marketing efforts through increased referrals plus extending their reach through marketing on the Internet.

Depending on the structure, these virtual law firms are provided anything from strictly unbundled legal services to full-service legal services in a variety of practice areas. However, they are using secure client portals as the primary way of delivering the legal services to clients on-line and are operating backend law offices that permit the firm to operate outside of a brick & mortar law office or fixed geographic location. Some firms will cultivate a completely on-line client base for certain legal services while using the features of the virtual law office as an amenity for their existing in-person clients.

In the last few years as a result of the down economy, more virtual law firms are being opened by solo practitioners who use this form of law practice as way to maintain a competitive advantage and expand the potential client base of a single attorney across geographic boundaries. The growth of virtual law firms providing on-line delivery of legal services is expected to grow as consumer demand for on-line legal services and ecommerce in general continues to grow.

### **What Kind of Services Can Be Delivered On-Line**

Examples: unbundled legal services, basic legal guidance from web calculators and web advisors.

Within these different structures of on-line delivery, there are different types of legal services that are being delivered on-line. The primary form of legal services being delivered on-line are unbundled legal services and basic legal guidance and advice.

Unbundled legal services are also called discrete task representation or limited scope legal services. These services might include documents drafting, but also may include other forms of legal services, such as drafting pleadings, briefs, declarations or orders, document review, conducting legal research, negotiating, advising on court procedures and courtroom behavior, coaching on strategy or

role playing, preparing exhibits, organizing discovery materials, providing guidance related to local and state rules and collaborative lawyering. There are separate ethical considerations in unbundling legal services and best practices for on-line delivery which cannot be covered in this manuscript. Limited scope agreements are used to define the scope of legal services that are delivered unbundled and also cover the use of the technology.

Some attorney websites will include intelligent calculators or web advisors that the public may use on-line before even entering into an engagement agreement with the attorney. These forms of legal services provide clients with basic legal information that may be customized based on the data that the consumer enters. The generic guidance that comes along with the answers provided by the customer's data may or may not provide enough guidance for the consumer to know where to go from that point. This form of on-line service may also be used as a form of marketing for the law firm. Prospective clients using these tools on the attorney's website may then decide to retain the services of the firm for full-service representation or to work with the firm on-line. Likewise, the use of other forms of educational content on the firm's website may also provide a basis for legal services with the goal of driving the prospective client to retaining the services of the site's owner. Other lawyers who are combining traditional practices with on-line legal services are able to combine these unbundled legal services with full-service representation, including litigation.

### **Tools for On-line Delivery**

Examples: web calculator (child support calculator or term sheet generator) on a firm website, web advisors such as Access to Justice (A2J), case and client management applications, document automation and assembly programs

There are specific cloud-based tools used to facilitate these different forms of on-line delivery. These include document automation and assembly programs, on-line case and client management tools, web advisors and calculators. More on-line delivery tools are being developed every day and many are combining more than one of these components to create richer forms of on-line legal services.

### **Document Automation and Assembly**

Automated document assembly most commonly occurs in the delivery of on-line legal services when a client fills out a secure form that is hosted on the law firm's website. Some document automation systems employ "intuitive" forms which means that if the individual responds affirmatively to a question, the form will automatically provide the appropriate next question based on that response. The data that is placed into the form may then be edited by the lawyer as needed before the data in the form is transferred to a template where it is assembled into a standard legal document. The final product may then be directly purchased by the individual along with instructions for execution or filing, or used by the law firm for a client's case matter.

For years, law firms have used forms of document automation and assembly to streamline their practice and many have created customized templates from everything from client intake forms to

complex contracts and agreements that are reused by firm members. More recently, the technology has been developed into web applications that law firms may integrate into their firm website for use by the general public or for registered clients. Some firms are using these web-based applications as a way of providing free legal forms to the general public for self-help legal assistance. The firm may expect that a number of these individuals will later retain the service of the law firm for full-representation. Therefore, one use of this form of on-line delivery of legal services is part of a larger marketing strategy to build educational content and usefulness to a law firm website which may increase SEO and traffic to the site.

Another use of the document automation and assembly tools may be found in the creation of virtual law firms. These web-based platforms create a secure, on-line account page where the firm's clients may log on and provide information to the firm and to request legal services on-line. Integration of complex document assembly and automation features into a client's account homepage allows the attorney to collect data from the client on-line. This expedites the process of working with the client on-line. Clients may fill out on-line client intake forms that then generate into a worksheet for use by the law firm with their clients. A member of the firm may request that the client fill out a specific form on-line that is connected with their case. The client enters that data and it is generated into a legal document that the lawyer may review and edit before either selling directly back to the pro se litigant for use in their legal case or to use the document as part of full-service representation of the client's case.

Document automation and assembly is particularly useful for the unbundling of legal services on-line. The use of the technology for this purpose is efficient and permits the attorney to focus more on the legal needs of the individual client rather than focusing on drafting boilerplate language into a legal document.

Attorneys have competition in the use of delivering legal services on-line with document automation and assembly programs. On-line legal service companies, such as LegalZoom ([www.legalzoom.com](http://www.legalzoom.com)) and Rocket Lawyer ([www.rocketlawyer.com](http://www.rocketlawyer.com)), use automated document assembly to provide legal forms to clients on-line. These products delivered to the public on-line do not have the added review and input from an actual lawyer from the beginning to the end of the process. For this reason, the model has come under criticism from state bars and other legal professionals and consumer protection organizations.<sup>10</sup>

Another option for the legal profession is the use of these systems within a secure virtual law firm setting or integrated into the websites of firms offering them as free, educational content to the

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<sup>10</sup> See North Carolina State Bar's Unauthorized Practice Committee's cease and desist letter, dated May 5, 2008, claiming that LegalZoom's practices constitute the unauthorized practice of law in North Carolina. See also the amended class action petition filed January, 2010, seeking refund of fees paid to LegalZoom by Missouri consumers; article in *ABA Journal* (February 19, 2010), [http://abajournal.com/news/article/suit\\_claims\\_legalzooms\\_document\\_prep\\_is\\_unauthorized\\_practice](http://abajournal.com/news/article/suit_claims_legalzooms_document_prep_is_unauthorized_practice)

public. For example, DirectLaw, powered by Rapidocs ([www.rapidocs.com](http://www.rapidocs.com)), is an example of software as a service (SaaS) product that provides sophisticated document automation and assembly technology. HotDocs ([www.hotdocs.com](http://www.hotdocs.com)) and Exari ([www.exari.com](http://www.exari.com)) are other well-known software programs that provide this service and may be customized and integrated into web-based platform for on-line delivery.

The impact of using these new web-based tools is to greatly increase law firm productivity by reducing the amount of lawyer time that is required to be spent on each transaction. This savings in lawyer time can be passed on to the client in the terms of reduced legal fees, expanding the market that the law firm can serve.

### **On-line Case and Client Management**

Web-based practice management systems are quickly becoming a popular method of on-line delivery of legal services. Many of these systems limit the amount of on-line delivery directly to clients and will be limited to document exchange or on-line bill payments for legal services. However, other systems with client portals allow for the greater development of the on-line relationship between the attorney and client. As consumer trends continue to indicate that the public is actively seeking on-line legal services, companies providing web-based case and client management systems will develop a client-facing component that emphasizes increased delivery options.

Typical features in a case and client management system might include a secure account page for the client with the status of the legal matter, calendar, contact information, files where the attorney may upload documents for the client to review, payment of legal fees with credit card, a way to request initial and additional legal advice or to set an appointment for a conference call or in-person visit with the law firm. Some client portals will make use of document automation and assembly tools to generate legal documents that are provided on-line in addition to legal guidance. Clients using these features have limited management control over the content of their secure account page. However, the ability to access that page 24/7 provides the client with a greater feeling of control over his or her legal matter. The ability to contact the law firm securely over the Internet through this system may also limit the firm's risk of the common malpractice complaint that the firm is not responding promptly to a client's requests.

Other case and client management system may include methods of collaborating with the client and co-counsel on the case in the form of project management tools. The use of these tools may not provide the same level of security as a virtual law firm with permissions-based controls, but some attorneys are willing to take that risk for the benefit of collaborating on-line with clients in the creation of a strategy or on project management for their case. If the client is representing him or herself, (pro-se), he or she may take the work completed on-line in collaboration with the law firm as part of a limited scope representation agreement with the firm.

Clients will continue to want more control or supervision over the progress of their case file. The use of on-line client and case management systems delivers this legal service. Because the use of these systems benefits the law firm by making certain processes of law firm management more efficient, we can expect to see more development of products that provide this service. Future features in case and client management tools may include features such as video conferencing, real time chat and even avatar or virtual reality world interaction between attorneys and clients that improves the experience of the on-line delivery.

### **Web Advisors and Calculators**

Law firm websites may include intelligent calculators or web advisors. The public may use these tools online at no cost and without entering into an engagement agreement with the attorney. In general, web advisors and calculators provide individuals with basic legal information that may be customized based on the data that the consumer enters. The generic court or legal forms that follow from the answers provided by the consumer may or may not provide enough guidance for that individual to know how to proceed with their legal needs. Some applications will provide court forms and instructions for filing while others will only provide basic information related to a general practice area and will require the additional assistance of an attorney for the individual to proceed. Examples of these online applications might include a child support payment calculator, a bankruptcy eligibility calculator or term sheet generator added to the homepage of a law firm website.<sup>11</sup> These tools educate the prospective client and prepare the person to become a client of the law firm as they seek more specific legal advice that applies to their specific situation, which is beyond the scope of the digital application.

In the non-profit sector, A2J Author, an open source software creation provided by the Center for Access to Justice & Technology at Chicago-Kent College of Law, is a tool that courts, legal aid offices and members of the HotDocs development community may use to integrate customized online interviews into their websites as a self-help guide through certain legal matters.<sup>12</sup> With this online advisor, pro se litigants answer a series of questions as they click through a program that provides them with guidance and the necessary court forms. The application has a friendly user-interface that includes an avatar that walks the user through the questions and up to the front steps of a courthouse. At the end of the interview process, pro se litigants may be directed to their legal aid office or are able to proceed on their own with the instructions and court forms provided by the online advisor.

Web advisors and online calculators offered on law firm websites as a free online service may be used as part of the firm's online marketing strategy. A value in offering these free tools to prospective clients is the potential of generating web traffic to the law firm's web site and the potential for

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<sup>11</sup> See Rosen Divorce Law's Child Support Calculator at <http://www.rosen.com/childcalculator/> (accessed March 7, 2011) and Wilson Sonsini Goodrich & Rosati's term sheet generator at <http://www.wsgr.com/wsgr/display.aspx?sectionname=practice/termsheet.htm> (accessed March 7, 2011).

<sup>12</sup> A2J Author, Center for Access to Justice & Technology, Chicago-Kent College of Law, <http://www.kentlaw.edu/cajt/A2JAuthor.html> (accessed March 7, 2011).

converting prospects into paying clients. These applications generate additional traffic to the firm's website and increase search engine optimization. Prospective clients using these tools on the attorney's website may subsequently decide to retain the services of the firm for full-service representation or to work with the firm online through a client portal. While these free online tools may be used for client development of the law firm, they may also be seen as useful tools to educate the public about their legal needs and to provide assistance to pro se litigants.

### **Constraints to Delivering Legal Services On-line**

#### **1. Cost of Marketing and Web Site Development Constraint**

Incorporating a "client portal" into a law firm web site that is poorly designed for attracting visitors and not optimized for search engine placement is a cause for failure in marketing legal services on-line. Delivering legal services on-line is no panacea for a lawyer or law firm that does not have an effective on-line marketing strategy. We have witnessed law firms that have launched a "virtual law firm: capability and expect that they will attract new business immediately. Unfortunately for a law firm to tap into the "latent legal market" for legal services that exists on the Internet, their web site has to be found on the web. If the "front-end" web is not optimized for search engine placement it is never found and therefore the law firm web site doesn't acquire and visitors, and with no visitors, no new clients. Optimizing a web site for search engine placement is a complex undertaking, beyond the knowledge of most lawyers. Unless a law firm can acquire a basic understanding of SEO, to get any meaningful result, it will have to purchase services from one of the many web consulting firms offering services in this specialty. The cost of these services, and the cost of creating a "front-end" web site that is can be found, can be significant.

While a law firm should get most of its visitors through organic search placement, the power of a pay-per-click campaign through Google and or Bing should not be estimated as a quick way of getting visibility. The cost of this marketing has to be built into the law firm's business model.

One approach for a solo law firm to increase its visibility it to participate in a branded network of law firms. A branded network of law firms is a consumer portal site that aggregates consumer interests in a particular legal problem and then refers the consumer leaf out to a law firm that is part of the network. The network, by aggregating financial contributions from each of the law firms in the network, is able to advertise on the search engines and get superior placement, as distinguished from each law firm advertising for itself.

These networks market their services direct to the consumer and rely on document automation and assembly systems to create and deliver legal forms on-line. Attorneys pay the company a fee to be part of their network. Consumers are given a list of potential attorneys in their geographic location. The benefit of this form of practice is that the company is handling the marketing to the consumer and may have a much broader reach than an individual attorney or law firm might have on their own. The cost of participating in these networks is another "marketing cost" that has to be built into the law firm

business model. Examples of branded networks include: [RocketLawyer](#), [Nolo](#), [Wills-Online](#), [TotalDivorce](#), [DirectLawConnect](#).<sup>13</sup>

## 2. Constraint/Limitations by Type of Practice

There are certain kinds of law practice which have a high face-to-face component, mostly in the litigation area, where the lawyer is constantly evaluating the credibility of the client as a witness. A good example, which comes to mind, is a criminal defense practice, or a high stakes litigation practice. In this case, a virtual law firm component may be less useful when compared to its utility in a transactional based practice such as estate planning or small business.

## 3. Constraint by Type of Client

Online delivery of legal services works best when the clients have a certain level of comfort using and communicating with technology. Most cloud-based applications that would be used to deliver legal services online are designed to be user friendly. As long as your clients can use basic email applications or are familiar with shopping online or handling their bank accounts online, they should be able to manage the basic functions of communicating with an attorney through a client portal. However, some clients may not have any experience using technology and may even be fearful of using it to handle their legal matters. Other clients may not have access to technology. Even though most public libraries provide free access to the Internet on computers, clients who are in remote locations or who are disabled may not have access to the technology necessary to obtain online legal services. Some clients may have access to older hardware that allows for text-based online communication through a client portal but would not have a web cam or microphone to allow for video or web-conferencing with the attorney. In those cases, the attorney might want to use a combination of the cloud-based application and phone conferences. But for some of these clients, the lack of technology and unfamiliarity of use would be a barrier to this form of delivery. Attorneys wanting to deliver legal services online should have a good understanding of what types of clients make up their target client base and have a grasp on what type of technology is available and comfortably used by those clients.

## 4. Limitation by Lawyer Learning Ability

There are some lawyers who stills struggle with email, and have their secretaries or paralegals have their email read to them and then they dictate a reply. These “technologically challenged” lawyers are not good candidates for operating a virtual law practice. They should continue practicing law the way they have always done, until their practice dies out or they retire.

## Business Planning

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<sup>13</sup> Disclosure: Stephanie Kimbro is the co-founder of VLOTech, a legal software as a service company which was acquired by Total Attorneys in the Fall of 2009, and currently provides technology consultation to them on the subject of virtual law practice. Richard Granat is the founder of Directlaw, Inc., a leading provider of a virtual law firm platform (client portal) to solos and small law firms.

A first step for a law firm thinking about delivering legal services on-line to think through a business and marketing plan. Estimating startup costs and laying out the business plan and budget will depend on how the firm intends to structure the online delivery, whether through a truly virtual law firm and/or in conjunction with more traditional legal services delivery. It will also depend on the technology that is chosen for the delivery, the practice area(s), and whether there is an existing, established law practice moving to provide online delivery or the attorney is just starting out and hanging their shingle.

Regardless of the chosen structure, it is necessary to run through a cost and ROI analysis of the online delivery method. The initial investment in marketing and the launch of the online services will greatly impact startup costs. If you are operating a physical law office in addition to online legal services, many of these costs may already be included in what is invested in the current practice. However, if the firm is offering online legal services for the first time, it may take more of an initial investment in online marketing and social media involvement to develop the reputation for the firm as a provider of online legal services. This type of analysis and the marketing strategy that accompanies it should be present in the business planning. The rules of professional conduct of the attorney's state bar(s) will also dictate the extent to which online advertising and other forms of online client development, such as social networking and pay-per-click advertising, may be used to promote the online delivery of legal services.

The business plan should be fluid and updated regularly as the firm establishes its online brand and determines which forms of marketing are the most cost-effective. The plan should answer at least the following questions:

What clients will be targeted by the law firm? What is the "niche"?

Does the "niche" selected build on the lawyer's expertise and "off-line" reputation?

What is the addressable market (e.g. market size) within my particular state?

How much competition is there in this "niche" in my state? Competition should be assessed in terms of both law firm competition and non-law firm competition.

What is the pricing for comparable legal services from other law firms? Should I offer fixed fee or value billing for online services or a combination of billing options including billable hour fees?

Are other law firms offering "unbundled legal services" in the niche that I want to develop?

Is there a way to leverage my "off-line" reputation in driving traffic to my web site?

What kind of market share can I expect state-wide with an on-line legal services approach?

If I already have a web site, what kind of search engine placement does it have when a key word is searched that is representative of the niche?

If I don't appear on the first page of Google in my "niche" is searched, does my "front-end" web site need to be re-designed? How much will that cost?

What is the cost of adding a virtual law firm component to my web site? What features will it add that will enhance client service or client acquisition?

What is the estimated cost of marketing on the Internet through pay-per-click advertising?



What social media methods can I use to promote my on-line legal service? Should I incorporate a blog into my law firm web site, to keep content on the web site fresh?

What kind of revenue can I expect on-line, what will it cost me to service this revenue, and what is my expected profit margin?

### **Future of On-line Delivery**

As the security in these various forms of cloud-based applications improves, we can expect that additional forms of communicating with our clients to deliver these services more effectively on-line will develop. For example, more of the existing applications may add secure web-conferencing or video and desktop sharing features that allow the client and attorney to conduct confidential meetings through web-based applications with less risk. These tools may include the use of more sophisticated decision tree tools where the clients themselves are interacting more with a web-based application through not only the initial client intake process but through a lower level analysis of their legal needs and perhaps even to the stage where the application is taking the data and providing customized legal solutions directly to the client and/or to the attorney who will then take over with the more complex legal work. We will mostly likely continue to see the growth of virtual law firms, but also more hybrid forms of virtual law practice where traditional firms are adding some form of web-practice in order to remain competitive and to meet the demand for on-line legal services from their client base.

Other on-line solutions may also deliver assistance to the public without the use of attorneys and these may begin to have an impact on law practices. Companies such as eBay and PayPal already have on-line dispute forums that do not involve the use of an attorney. Instead, these efficient on-line systems match up the parties in a dispute and use on-line interfaces that require that they work through disputes to arrive at a solution.

Future development of on-line delivery methods will also depend on the outcome of current state bar and other regulatory entities who are examining the need for regulation of cloud computing, software as a service and other technology-based issues that directly impact the on-line delivery of legal services. There is great potential to use many different forms of web practice to fill in the gap in legal services and to start to address the lack of access to justice in our country. If regulations are put in place that too strictly box in the development of technology for law practice, this may place a chill on innovation in our industry and do a disservice to the public who are in need of alternative forms of receiving legal assistance.

We are in the early stages of a shift in the platform for the delivery of legal services, from traditional face-to-face in-person delivery to the Internet as a new way to connect with clients in many different ways. It is obvious that as the “connected generation” matures to the point where they have legal problems they will expect that their lawyers have the capacity of serving them on-line. It is only a matter of time before every law firm will have some form of client portal that becomes the primary

vehicle for client relationship. This development will affect all types of law firms, but there is the potential for solos and small law firms to serve what Richard Susskind has called the “latent market” for legal services by providing “unbundled legal services” on-line at fees that the broad middle class can afford. As the price of legal services goes down, volume should increase as the market widens because of the reach of the Internet and productivity benefits that accrue to both lawyers and clients as a result of the use of digital applications delivered over the Internet.

This is the promise and potential of the delivery of legal services on-line.