

CuroLegal

Modern Law Practice Trends

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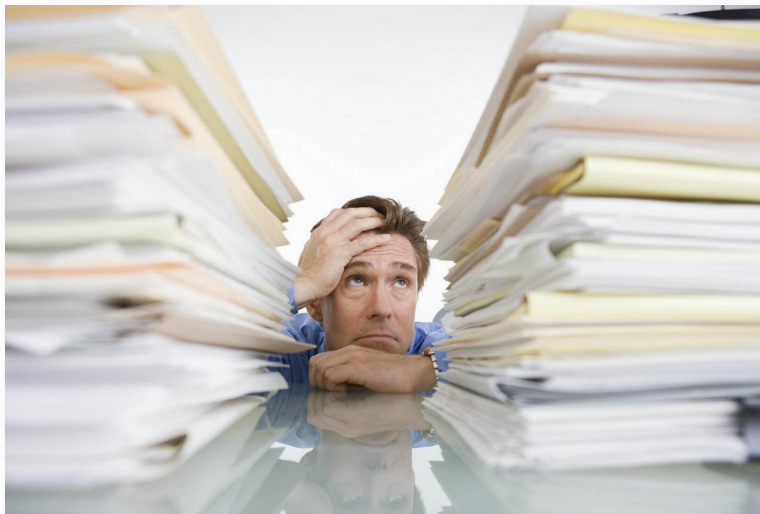
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INTRODUCTION

The legal landscape is changing at a rapid pace. New law models are popping up and investment money is pouring into the industry. The issue remains that lawyers are starting new firms and revamping existing models and need help doing so. Molding a law practice is a challenge, regardless of practice area, experience or resources. It is like starting any type of business. Being a good technician (in other words, being a lawyer) is not enough. There are a lot of aspects that have to be in line from the business perspective to make the practice work.

Emerging business models exist that are often labeled as "virtual law firms." Such firms take a different twist on how a practice is operated. Using technology, interactions between the lawyers and clients are enhanced. The purpose of the seminar that accompanies these materials is to explore how to start such a practice and get it off the ground.

The following will be addressed in these materials: (a) virtual law models; (b) cloud computing; (c) cloud-based practice management solutions; (d) mobile lawyering; (e) outsourcing; and (f) marketing emerging law models through social media and otherwise.



You are doing it wrong.

VIRTUAL LAW PRACTICE

The concept of a “virtual law practice” has a range of definitions. VLPs range from solo practitioners to large firms – and everything in between. On one hand, you can be a solo who delivers services online. On the other, firms provide full-service work outside a traditional brick and mortar presence. The common denominator with each model is that technology is used to enhance client service. In the tech and entrepreneur circles, a lot has been written on the concept of disruptive innovation. These new models are the legal field’s version of disruption.

There is an element of freedom for lawyers inherent in VLP models. Lawyers become free from a restrictive office environment. Free from oppressive overhead. Free from old technology. Free from employing too many staff members, etc., etc.

Consumer expectations are part of the driving force with these models. Clients – both businesses and individuals – have become more adept at interacting with professionals online and expect to do so in a cost-effective manner. The Legal Zooms and Rocket Lawyers of the world have moved this notion into the legal market. Opportunity exists for lawyers to provide unbundled (or limited scope) legal services to clients that might otherwise pay for a Legal Zoom form that lacks attorney review and expertise.

There are virtual law firms that provide full-service to clients. Lawyers work in one firm, but are geographically distributed. Existing virtual law firms each have a different culture and method of operation (much like traditional law firms). The advancement of legal practice management technology has allowed these firms to be creative in day-to-day operations and with client interaction.

Other firms add elements of unbundling or online delivery of services to a traditional brick and mortar presence. Lawyers find that adding even one or two new technology concepts to their operations have improved practice management and client service.

Much has been written on this topic, including by Stephanie Kimbro. Here are some important resources:

- *Virtual Law Practice: How To Deliver Legal Services Online*, <http://apps.americanbar.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=5110707>
- *Limited Scope Legal Services: Unbundling and the Self-Help Client*, <http://apps.americanbar.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=5110740>
- *Virtual Law Practice Blog*, www.virtuallawpractice.org

THE CLOUD

Cloud (or web-based) computing is at the core of any emerging law practice business model. Cloud computing is not new to the business world; however, it finally has grabbed the attention of the legal profession. Products and platforms that store data on a third-party server are available to help lawyers efficiently and effectively manage their law practices.



This is the “cloud.”

Cloud-based solutions range from full practice management platforms to simple note taking applications. These products typically are sold on a per-license basis so that users can pay on a monthly or yearly basis at a much lower cost than traditional PC hardware. The solutions have helped level the playing field for solo practitioners and small firms to have robust practice management solutions that they otherwise might not be able to afford.

Initially, web-based products were viewed as problematic for lawyers. As security is enhanced, lawyers have become more comfortable storing their data on third-party servers. It has become apparent (and not surprising) through new state ethics opinions and existing ethics rules that lawyers must take reasonable precautions to protect their data that is being stored on third-party servers. This is the same protection afforded to hard-copy documents that are in a traditional office and handled by third parties.

The American Bar Association's Legal Technology Resource Center maintains the latest on ethics opinions related to the cloud here: https://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/charts_fyis/cloud-ethics-chart.html

Here is a list of issues that lawyers should consider when utilizing cloud-based services:

Ethics Tips

You are a lawyer. Read the Service Level Agreement (“SLA”) to understand the security and privacy issues. You have a duty to take reasonable steps to ensure the confidentiality of your client’s data.

Encryption. The SLA will (should) explain when your data is encrypted. You want your data to be encrypted during transit and at rest.

The Cloud? It is not a magical, non-physical place. Your data is being stored on servers at remote, secure locations.

Location, location, location. Where is your data being stored? You want it to stay in the United States. Other country’s laws may be more relaxed when it comes to the government gaining access to data.

Who can see your info? Your SLA should address which employees of the third-party providers can access your data.

Read your rules. Review your state/local ethics rules as a refresher to see how cloud products may be/are treated.

Read the Opinions. Become familiar with state ethics opinions on cloud computing. If your state has not gone that route, check other states, such as North Carolina.

Practical Tips

What are your needs? Cloud computing products are popping up on a weekly basis. Conduct a needs analysis and go out and find the right product to boost your practice.

Extroverted Products. Before integrating a product to your line up, check to see if gets along with other products you use or may use. The more the products integrate, the better. It increases effectiveness (e.g., Clio integrates with Google Apps, Office 365 and Box, among many others).

Trust matters. How do you feel about the provider? Google reviews of the owner/developer as part of your due diligence.

Data breaches. Check to see if there have been data breaches by the provider.

Back it up. If you are storing data on the cloud, you want to be able to sync/extract the data locally. Set a schedule to back up the data off of the service. And then, for extra good measure, back up the local data. (e.g., sync Box documents locally and then back up with Carbonite.)

Client Engagement. Amend your client engagement letter to indicate that your firm stores data on the cloud. Talk to your clients about how you operate.

Mobility. Before integrating a product, check to see if it syncs or is accessible from your particular mobile device. How stable is the sync? Some products are not reliable in syncing to multiple devices.

Tasks. Whether you are a Getting Things Done nerd or like to keep lists, cloud-based solutions are emerging left and right. Most sync with your mobile devices.

Passwords. How many online accounts do you maintain? Right – a lot. Maintain strong passwords for each product. Change them every 90 days or so. Use Lastpass or 1Password to keep track of your accounts.

Collaborate. More and more cloud-based products are providing ways to collaborate with clients, internally within a firm, co-counsel and others. This provides secure ways to transmit data without email attachments flying around and potential confusion on versions (e.g., Dropbox, Box, Evernote, Google Drive).

Connectivity. If you are going to adopt cloud-based products for core functionality, confirm that you have strong Internet connections at key locations where you spend most of your time.

No Public Wi-Fi. It is tempting, but free public Wi-Fi use increases your chances of someone improperly accessing your data. Personal hotspots or 3G connections are better or use a VPN.

Pay Attention. Keep tabs on your service provider. While your provider may seem secure or functionally appropriate, things change. If you are going to dive into the cloud, then you should be aware of latest developments.

Scalability. You might be a solo today, but what if you add staff or lawyers to your firm? Does the service you are using translate well to different sized organizations?

Transferability. If you decide to no longer use a service, learn how to extract data to upload to other systems. The same goes for adding additional users and upload data from other services.

Buy-in. Know your crowd. Implementing cloud-based solutions may be easier with some folks in your organization, than with others. Develop a roll out plan and talk with key individuals before dropping the bomb.

Updates. One of the key advantages to cloud-based services is that new features and upgrades are integrated automatically. You seldom have to worry about upgrading hardware to have the latest version work on your device.

Help with Implementation. Check to see if the cloud-based provider will assist during the implementation process with the rollout and training. (e.g., Before Google rolled out the new Google Apps in 2011, it sent admins suggestions on the rollout.)

Google Integration. Google Apps is a popular email system for lawyers. With Google's popularity, options abound for linking your account to other third-party applications. Be extra cautious, because you will necessarily be entering your email address and password into those other third-party apps. Conduct the proper amount of due diligence on the product to make sure you want to provide that information.

Evernote. Sign up and give it a test drive. You will wonder how you functioned in your pre-Evernote life.

Up Time. A legitimate cloud-computing product should have a 99.99% up time.

Practice Management Tips

KISS. Cloud-based law practice management services tend to purposely lack the bells and whistles of traditional local systems. Check to see if the features that are necessary for your practice are included in the system.

The Trial. Most LPM SaaS services provide free trials. Use the trial to test the different features and feel. Each one is different.

Conflict Checks. How easy is it to conduct conflict checks in the cloud service? It should be simple.

The Sync. Your system should permit easy upload of emails and documents.

Docket it. Dates, naturally, matter to lawyers. The system should have a way to sync deadlines with other calendars. This will help prevent losing dates.

PRACTICE MANAGEMENT SOLUTIONS

At the center of any virtual law model is a practice management solution. With cloud computing products constantly developing, firms can research and implement solutions tailored to their particular practice.

Cloud-Based Legal Platforms

Clio (www.goclio.com). Clio is a cloud-based practice management product which provides the ability to maintain contacts, matters, calendars and to-do items, time and billing as well as the ability to store unlimited documents online using Clio's integrated service as well as sharing these documents with clients through Clio Connect. Clio integrates with popular e-mail programs as well as allowing synchronization with Outlook and off-line access to calendars contacts and tasks. Clio also integrates with Google Apps, OneDrive and QuickBooks Online. Clio integrates with Box, NetDocs, Google Drive and Dropbox on the document storage side and many many more apps. The Zapier integration opens up hundreds of app integrations.

Rocket Matter (www.rocketmatter.com). Rocket Matter is a cloud-based practice management product, which provides the ability to maintain contacts, matters, calendars and to-do items and time and billing. RocketMatter includes the ability to synchronize with Dropbox as well as its own unlimited document storage. RocketMatter also allows export of data for use in QuickBooks.

MyCase (www.mycase.com) MyCase is a cloud-based practice management software that helps manage your cases, tracks time, automates billing, and allows for communication with clients. You can add unlimited clients, documents, and users. It also integrates with QuickBooks and allows for document automation.

LexisNexis Firm Manager (www.firmmanager.com). Firm Manager is the cloud-based practice management product from LexisNexis, owner of both TimeMatters and PCLaw. Firm Manager includes the ability to customize templates for specific practice areas and provides integration and synchronization with Outlook 2007 and 2010. You can save emails and attachments to Firm Manager directly from inside Outlook. Firm Manager allows you to grant online access to your clients for tasks, appointments and documents.

DirectLaw (www.directlaw.com). The DirectLaw platform provides for the online delivery of services with client portals. It provides the ability for new and existing clients to log into the system, execute engagement letters through click-wrap agreements and to interact with counsel. DirectLaw also is integrated with RapidDocs, which provides for standard and customized document generation. DirectLaw integrates with Clio.

Document Management

Most lawyers would argue that documents rank in their top three most important assets, along with their brilliant critical thinking skills and eloquent oratory abilities. With the legal profession becoming more and more mobile, the need to access documents on the go is necessary. Whether lawyers need to review files in court or during client meetings, the ability to pull up a client file on a laptop, tablet or smartphone is not just convenient but a critical part of one's practice.

Cloud-based technologies allow this to occur. No longer do lawyers need to store mass amounts of data on an expensive on-site server that needs to be replaced every five years or so. Like any use of a cloud-based technology, lawyers need to understand the security and storage capabilities of the provider before putting client files on a third-party server. Once the lawyer is comfortable with the provider, it provides endless options for storing documents on the cloud.

Some cloud-based document management systems have existed for several years and have robust features to help organize information. Others are created to be very simple. Even though the user is storing documents on a third-party server, systems such as Box and Dropbox allow the user to sync documents to a local computer. The following are several of the options for cloud-based document storage systems:

Box (www.box.com): Box has been in the cloud-based document storage world since 2005. Box's market is targeted towards enterprise use. While most of its features are available through a free account, more robust security and functionality is available for a monthly license fee. Box integrates with a growing number of online applications, such as Google Apps, EchoSign, Salesforce, and Yammer. Documents can be synced locally, or the user can upload and download information through the web-based platform. Box allows tagging of documents to increase organization and has robust collaboration features.

Dropbox (www.dropbox.com): Dropbox is one of the more popular ways that lawyers save their documents online. Dropbox, which originally was a consumer-grade product, has been integrated more and more into the business world. Despite some public hiccups on security, Dropbox maintains that documents are secure on their system. Dropbox can be used on a PC or Mac computer. Like Box, it has apps for the iPad, iPhone, Android and Blackberry. Documents sync locally to the user's hard drive.

SpiderOak (www.spideroak.com): SpiderOak is a competitor of Dropbox in that it provides a simple online storage system where you can store up to 2 GBs for free. Additional space can be purchased and synced to unlimited devices. SpiderOak has mobile device apps for iOS and Android systems. SpiderOak markets itself as the sole "zero-knowledge" data privacy product. In other words, data is encrypted on SpiderOak's server and cannot be viewed by any SpiderOak employees. This puts the

control of remembering passwords on the user to keep a true “zero-knowledge environment.”

NetDocuments (www.netdocuments.com): NetDocuments is another good online document management systems. NetDocuments is one of the more comprehensive ways to store and work with documents online. If you are a Windows user, you can save documents directly from Office applications straight into NetDocuments, including Outlook. NetDocuments also has collaboration features, and, like some of the other products such as Box, has the ability to monitor online status of documents and whether they are being edited.

Online Collaboration

Most cloud-based legal practice management platforms include online client portals. These allow lawyers to interact with their clients in a secure environment to share documents, communications and payments for legal services. For example, Clio has each of these. The lawyer can send out secure links to clients to access documents, invoices and sensitive communications. Total Attorneys has a similar online portal.

Document management systems, such as Dropbox and Box, include online sharing capabilities. Instead of sending large attachments via email, a link can be sent to the recipient, who can access the document in a secure portal. In Box, the link also can be password protected and access can be revoked by the sender at any time.

Some products are designed for pure collaboration. Systems such as Slack (www.slackhq.com), Yammer (www.yammer.com) and Basecamp (www.basecamp.com) are designed for online interaction. These systems reduce email clutter and encourage the free flow of information among team members. Google Docs (www.docs.google.com) is another platform that can be used to create documents in a collaborative environment. These platforms not only reduce email but all real-time collaboration on communications, project management and the production of documents.

From a lawyer’s perspective, the key still is to look for secure products (through the tips described above). Further, many of the systems interact with each other. This is incredibly helpful for a firm to have products that seamlessly shift information in the background, so that data does not have to be inputted more than one time.

THE MOBILE LAWYER

In 2016, lawyers must be able to practice law on the go. Smartphones and tablets have cut the rope that used to tie lawyers down to their desk. Clients have unprecedented access to their counsel. Mobility allows lawyers to respond more quickly than waiting to get to the office to send a hardcopy letter or a fax. (Now, whether this is a healthy work environment or not will be saved for another discussion.)

The iPad and other tablets have changed the way lawyers practice law. When the most recent round of tablets hit the market, most viewed the device for consumption as opposed to production. For example, people viewed it as a way to watch YouTube videos and catch up on the latest news. However, with the constant release of new apps and the ability to access cloud-based products on the iPad, it is much more than a shiny object to watch the latest Netflix release.

To be clear, the iPad does not minimize the needs for lawyers to have sharp legal skills. The iPad, instead, is a tool that allows lawyers to create a mobile work environment. Entire firms can be operated from an iPad if the right technological set up is in place. It also allows busy lawyers to communicate with clients, create and modify documents, and even review electronic discovery on the go. Lawyers also are using iPads in depositions and trials.

Many lawyers own an iPad but have not taken the time to explore the device to really learn how it can assist in their practice. Lawyers are often surprised by the usefulness of the device: <http://www.smallfirminnovation.com/2011/12/mobile-law-office-ipad-apps/>.

The following highlights various ways a lawyer can use an iPad to enhance their practice and client service on a daily basis:

Communications. The most obvious way to communicate with an iPad is to use the Mail app and third-party email apps such as Spark, Outlook, and Inbox. This allows the lawyer to keep up to date with email traffic throughout the day and when on the move. The iPad also can be used as a telephone or videoconference through apps such as Skype, Zoom, and Hangouts.

Note Taking. The iPad allows lawyers to ditch the yellow legal pad. Apps such as iOS Notes, Notability, Paper and Penultimate (along with a growing number of similar apps) allow for hand written notes to be taken on the iPad. When the set of notes is complete, it can be emailed off for filing or directly uploaded to online document management systems, such as Box or Dropbox. Evernote is a popular app for note taking that is synced to various devices automatically. Microsoft OneNote is also a robust note taking app from Office 365.

Document Creation/Editing. Document creation and modification is an area where apps are being released that allow documents to maintain their original formatting, so that lawyers can create content on the go. Document suites such as PDF Expert allow the synchronization of the app with online document management systems such as Box and Dropbox. The user can download documents into the app from those online storage systems, edit the document, and then upload it back to the system. Pages is a solid app for the creation and editing of Word files. Microsoft's Office suite also has robust apps for documents.

Presentations. Every lawyer must present information at some point, whether at a deposition or trial or in a board room. The iPad allows this without lugging around computers and provides an interactive environment between the audience and presenter. The latest version of the iOS platform allows the iPad to be synced with an Apple TV, so that the lawyer can hold the iPad and walk around the room wirelessly while changing exhibits or slides in a Keynote presentation. Apps such as TrialPad allow the lawyer to present exhibits before a jury and witnesses, digitally write on the exhibit, “call out” parts of an exhibit, and even has a whiteboard feature. Here is an example of using iPads in paperless depositions: <http://www.smallfirminnovation.com/2011/10/ditch-the-paper-for-depositions/>.

Legal Research. Lawyers can do their research on the move. LexisNexis, Fastcase and Westlaw have stand-alone apps. After cases have been downloaded, the lawyer can highlight and write on the PDF document just like they are highlighting a case printed on paper. Apps such as iAnnotate and PDF Expert are useful tools to annotate PDF documents. If an online document management system is being used, the case in PDF format can be directly uploaded to the system. Otherwise, it can be emailed off and uploaded to a traditional practice management set up.

Practice Management. When traveling, owners or partners in a firm need to keep up with day-to-day operations and all-firm reports. Cloud-based law practice management systems, such as Clio and Rocket Matter, have iPad and iPhone apps. These platforms include billing, invoicing, docket management, to-do lists, accounting, along with many other features.

Electronic Document Review. Discovery dominates modern litigation. With more and more information being produced electronically, the amount data to review has grown tremendously. Several ediscovery platforms have moved to the cloud. Nextpoint (www.nextpoint.com) is a good example. Lawyers can review and code documents through Nextpoint on their iPads. Instead of being stuck in the firm’s war room, the lawyer can review this endless data from anywhere.

Dictation. Mobile devices can change the way workflow occurs with lawyers. Documents can be produced in creative ways using smartphones and iPads. Here is

an example: <http://www.smallfirminnovation.com/2011/11/managing-time-by-teaching-old-tools-new-tricks/>.

OUTSOURCING

Lawyers have outsourced for years. It used to be limited to services such as bookkeeping. However, with virtual assistant services becoming mainstream, more administrative work can be outsourced. These services exist around the country.

Virtual assistants provide support ranging from managing calendars to the creation of work product integrated into a law firm's practice management system. These arrangements are typically independent contractors, so that the firm is not taking on additional employees. Typically, virtual assistants are paid on an as-needed (hourly or project) basis. On the flip side, when the firm is busy and needs more assistance (i.e., more client work), you would pay the virtual assistant more for their services. CuroLegal's Custom Counsel division provides access virtual assistants and paralegals (www.customcounsel.com).

Another area where virtual services are being used is receptionist work. Virtual receptionists, such as Ruby Receptionists (www.callruby.com), are services to outsource answering telephone calls. These services have different pricing plans, but, overall, cost much less than hiring an employee receptionist. Moreover, most virtual receptionist services have advanced technology to monitor use. Ruby has an iPhone app through which the availability of the user can be updated and calls can be tracked. Ruby also provides voicemails sent to the recipient's email, so that the user does not have to log into a voicemail system.

Legal research and writing is another area where lawyers can outsource work. Some innovative lawyers have limited their practice to providing such outsourced work to other lawyers. In these situations, a lawyer is engaged on a contract basis to provide limited scope assignments. This is another beneficial way for firms to scale staffing needs for a particular time period or matter. Custom Counsel provides such services as well.