



Virtual Law Practice

Bootstrapping a Young Lawyer's Practice

By Stephen A. Cooley

Starting a law practice as a young attorney can be tough. There are more than enough moments of doubt, uncertainty, and fear to go around. The greatest challenge a young attorney faces is how best to bootstrap his or her practice while establishing a great reputation and committed client base. A virtual law practice offers a viable alternative to the traditional, capital-intensive law firm.

Defining what exactly constitutes a virtual law practice is difficult, as there is no general consensus within the legal community. However, the common denominator is technology. Which technological resources the e-lawyer uses depends largely on practice area, clientele demographics, and the e-lawyer's financial resources.

Virtual law practices can range from a purely online experience to a traditional law office offering client portals as a courtesy for existing clientele. This article

discusses the virtual law practice that exists as a purely online experience.

Virtual law practices tend to work well with transactional practice areas such as intellectual property, small business, appeals, uncontested family law matters, and estate planning. Practices that require numerous court appearances and continuous client contact are ill-suited for this format and remain the province of traditional, full-service law firms.

It is also helpful to mention a related concept at this juncture: unbundled legal services. Unbundling refers to “delivering legal services where the lawyer breaks down the tasks associated with a legal matter and only provides representation to the client pertaining to a clearly defined portion of a client's legal needs.”¹ In other words, unbundling is a limited scope representation under MRPC 1.2(b),² which has been deemed acceptable practice.³

The strong societal trend toward DIY services coupled with a rise in pro se litigation has created a market for unbundled services. Offering a la carte services empowers clients to remain actively engaged, reduces legal fees, and improves access to justice.

Benefits and risks of a virtual law practice

One of the great adversities young lawyers face when hanging a shingle is extreme income volatility. This volatility makes budgeting for practice expenses particularly onerous. Overhead, simply put, is a killer. Many solo firms fold as a direct result of scaling too fast, i.e., affirmatively acquiring the business infrastructure to meet expected capacity demands. While I wish every reader of this article had the high-value problem of having such incredible demand that he or she can't possibly service it fast enough, that's rarely the case. Don't make the mistake of leveraging huge debt to hire a staff you are not sure you will need or lease that penthouse office in the central business district. Temper your enthusiasm for appearing to be a successful lawyer and proceed cautiously. I recommend reading Eric T. Wagner's *Forbes* article describing Ernst & Young's five-step growth strategy for guidance.⁴ The same fuel that drives successful entrepreneurs can drive successful lawyers: thinking big; building a public profile as founder; creating rewarding business networks; and working on your business, not just in it. It is important to heed the opening advice of Wagner's article from marketing guru Dan Kennedy: "If your business stinks, the last thing you want to do is get the word out about it." Developing subject-matter competence is key, as I'll discuss later.

There are numerous benefits to virtual law practice, including increased personal autonomy and freedom. There are no dress codes, long commutes, or stringent office hours. The freedom to shuffle kids off to school in the morning or take an afternoon jog is yours. Simply put, a virtual law practice can help the e-lawyer create a more beneficial work/life balance and avoid burnout. It also eliminates overhead expenses from commercial office space, transportation costs associated with commuting, and office staff payroll. Many e-lawyers work from home, the library, or coffee shops, and suitable alternatives to full-time receptionists such as Ruby Receptionists allow you to project professionalism.

The virtual law practice also facilitates a paperless office. The impetus behind the business model is secure maintenance of client files within the cloud. As a result, there is internal pressure on the e-lawyer to reduce paper within his or her practice. A paperless office policy also has the attendant positive externality of reducing the e-lawyer's eco-footprint.

From a practice perspective, virtual law practice enables the e-lawyer to expand his or her geographic reach, find and develop new target markets, and provide for secure backup of client files. For the enterprising young lawyer, there is also the potential to combine with other e-lawyers in creative firm structures, including multijurisdictional practice.

These benefits, however, are not without their corresponding risks. Offering legal services online can catch an unwary lawyer in ethical hot water. Your main ethical concerns include the unauthorized practice of law, client data confidentiality, and misleading or deceptive advertising. Remember, your unique online presence will make it easier to inadvertently represent an out-of-state client and run afoul of other states' ethics rules. Best practices require that an e-lawyer survey other states' ethical equivalents of MRPC 5.5, fully advise the client regarding the nature and scope of the attorney-client relationship, use engagement or clickwrap agreements, and carefully review third-party licensing agreements to ensure ethical compliance and data security. Words of warning: never make it appear as though you operate a brick-and-mortar office if you do not, take pains to explicitly state on your website and in publications and promotional materials the jurisdictions in which you are licensed, and maintain robust conflict and jurisdictional check systems. I've highlighted only a few of the major ethical concerns, as a full treatment is beyond the scope of this article.

Setting up your virtual law practice

Before setting up your virtual law practice infrastructure, consider how you will brand your firm. I recommend that a young lawyer consider a niching strategy to effectively brand his or her firm. Niching serves two primary functions: it allows a young lawyer to quickly establish subject-matter competence in a narrow band of legal issues, and it focuses the lawyer's marketing message to help develop a target market. For example, instead of branding yourself as a generic criminal defense attorney, brand yourself as a retail fraud attorney. Niching also has the corollary effect of reducing direct competition. In other words, when you do everything, you compete with everyone.

Once you choose your practice area, carefully map out the interactions a client will have with your firm and look for areas where you can streamline the process. Remember, each interaction your client has with your firm is a make-or-break moment as far as service quality is concerned. To the greatest extent possible, consider automating your service delivery. Automation improves accuracy, saves time, and enhances quality. For example, one task that particularly frustrated me was client intake. I loathed

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the cumbersome process of filling out paper forms, scanning, and e-mailing. To streamline this process, I used Google Forms to create online intake questionnaires that export to a spreadsheet for easy reference. For estate planners and other transactional e-lawyers, consider document assembly and automation to rapidly prepare stock documents ready for subtle tweaking.

Purchasing a domain name consistent with your branding is key, and designing your website should be a careful and deliberate process. Don't accept an off-the-shelf solution merely because other lawyers use it. Many attorneys have lousy websites. Give careful consideration to the style, colors, and interactivity inherent in your website and avoid the appearance of an infomercial, replete with telephone numbers, trite slogans, and repetitive pleas to "call today!" At a minimum, your site should contain a page explaining your credentials and displaying your photograph, a page showing your various practice areas, a blog, a contact form, and a space for your clients to log in to their portals. An e-lawyer's website is his or her front office, so take the time to make a good impression. You should also link your social media accounts to the site.

The cornerstone of your virtual law practice, however, is the client portal. The portal should be incorporated into your website's architecture and include a unique space for each client, requiring login credentials. There are several options available for client portals and, ultimately, selecting one is a matter of personal preference. Numerous project management suites—Basecamp and Glasscube are two examples—offer the basics including messaging, document uploading and downloading, and calendars. Likewise, there are several legal portal applications including HoudiniEsq, Clio, MyCase, and DirectLaw. These applications are known as software as a service, or SaaS, and are cloud-based solutions. The portals designed specifically for lawyers can include features such as time management, billing and invoicing, conflict and jurisdictional

checks, secure messaging, and document sharing. Take your time researching the various alternatives and carefully evaluate each portal's respective features. Many of these companies allow free trial periods; use them.

You will also want to consider web conferencing as a courtesy for your clients. Often, it is hard to build rapport through messaging alone. As a result, it is advisable to offer several options for video conferencing so your clients can see you face to face, so to speak. Available options include Skype, FaceTime, and WebEx. The best practice is to have accounts with as many of the larger, free services as possible. In a similar vein, consider producing video content for your website. The content may be technical and explain the nuts and bolts of your virtual law practice or it may be educational and directed toward your substantive practice area.

These are a few suggestions to help guide you as you hang a virtual shingle. Hopefully, you can go on to great success with your virtual law practice armed with these insights. Remember, you are limited only by your own creativity. Explore and experiment with various technologies and software, aim to have your practice evolve over time, and never be complacent with your service delivery or quality. ■

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ENDNOTES

1. Kimbro, *Practicing Law Online: Creating a Virtual Law Office* eBook <<http://www.slideshare.net/StephKimbro/practicing-law-online-creating-a-virtual-law-office-ebook>> (accessed October 9, 2015).
2. See comments after MRPC 1.2(b) ("The objectives or scope of services provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client.").
3. RI-347. This informal ethics opinion considered whether a Michigan lawyer may represent a pro se litigant using unbundled legal services and whether that assistance must be disclosed to the court or the other parties. "[W]e conclude that unbundling to assist a pro se litigant is permitted by Rule 1.2(b), and that a properly informed client may voluntarily contract for limited legal services." The opinion further held that "[u]nless there is an affirmative misrepresentation that a pro se litigant has not been assisted by a lawyer, assistance by a lawyer need not be disclosed to the tribunal under the Michigan Rules of Professional Conduct."
4. Wagner, *5 Steps To Scale Your Business (You Won't Make It Otherwise)* <<http://www.forbes.com/sites/ericwagner/2013/11/20/5-steps-to-scale-your-business-you-wont-make-it-otherwise/>> (accessed October 9, 2015).