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THE TECHSHOW ISSUE

# LAW PRACTICE

THE BUSINESS OF PRACTICING LAW

MARCH/APRIL 2017

VOL. 43 NO. 2

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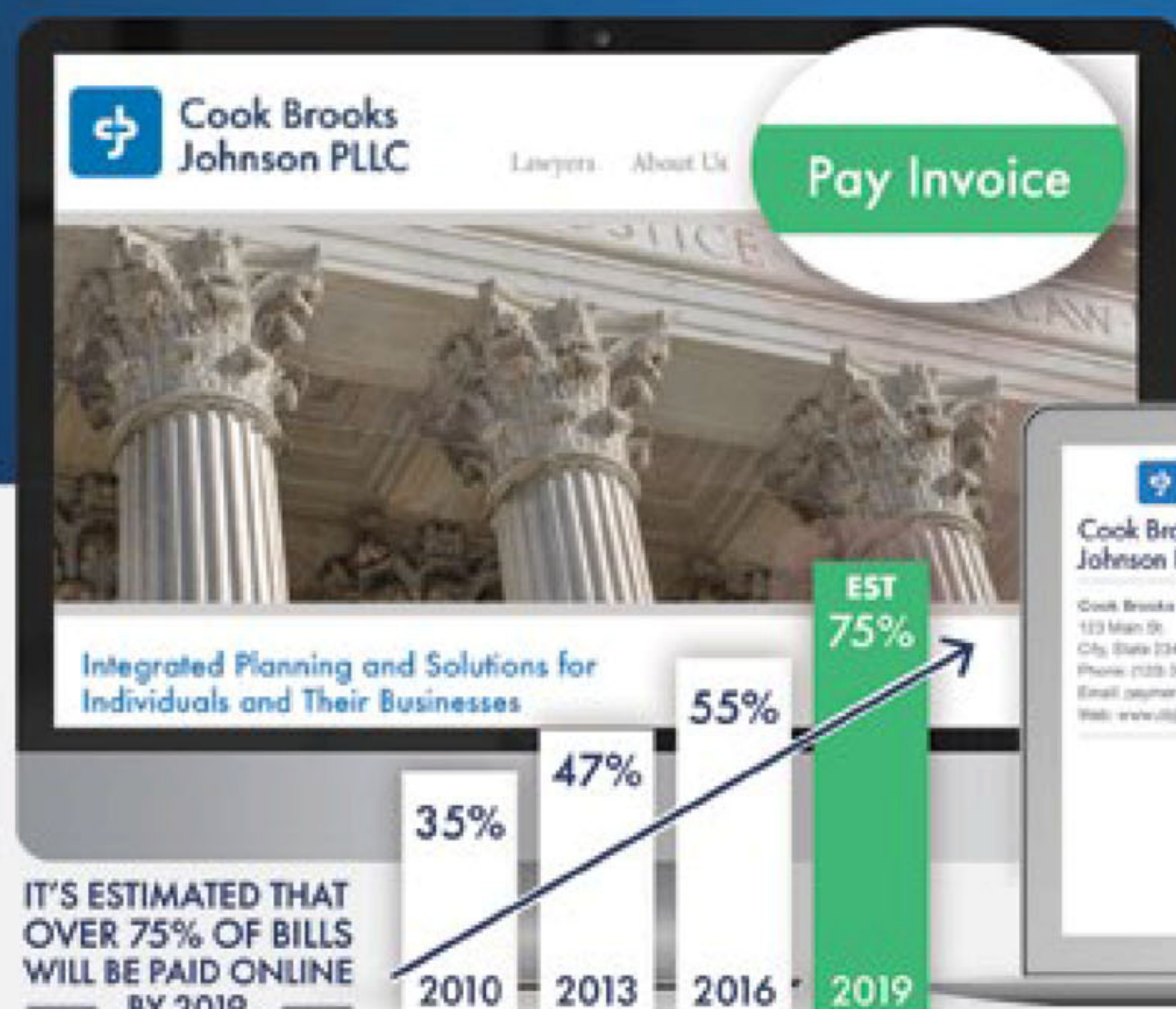
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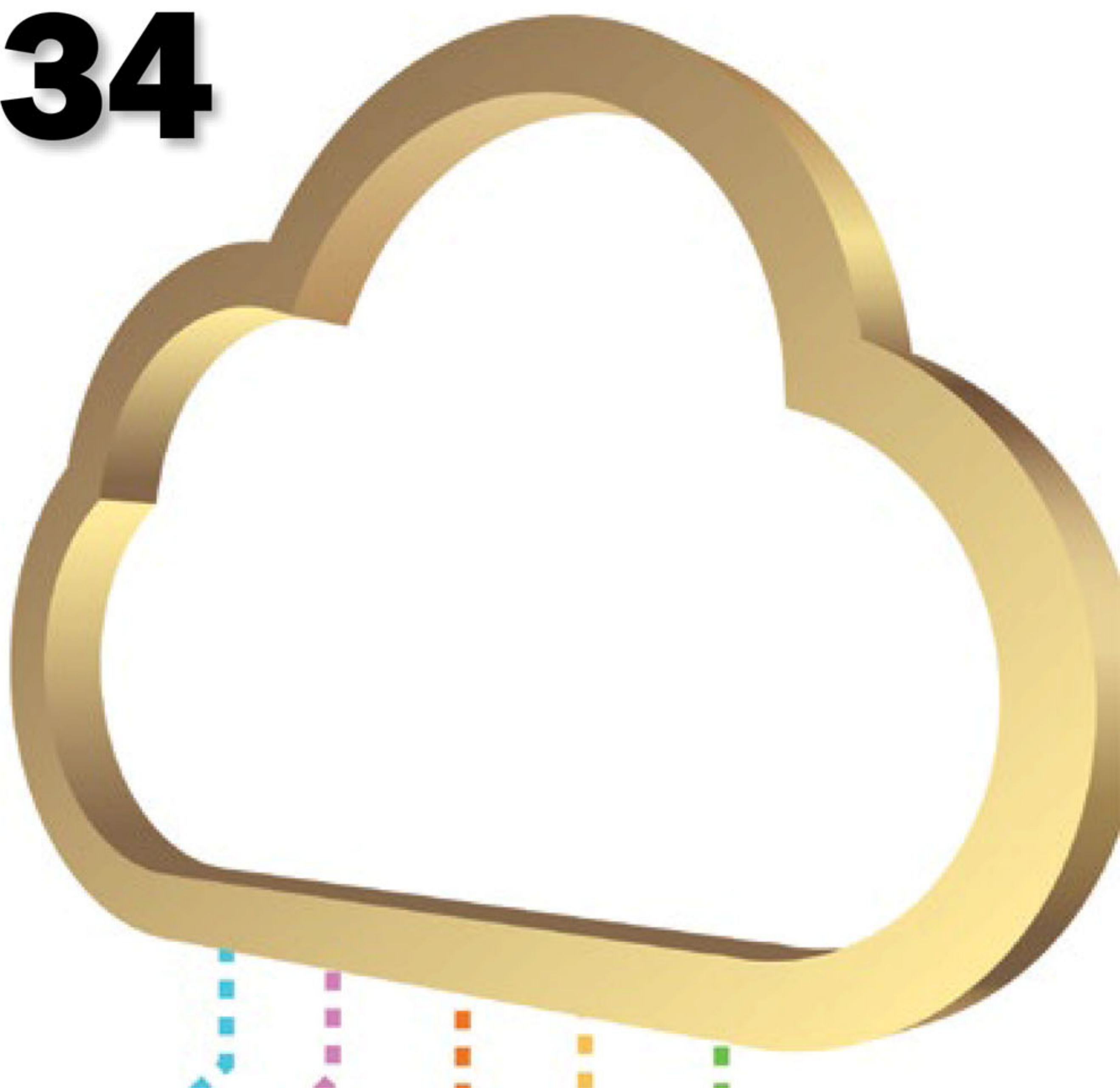
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**"We have transformed from a time when legal technology was a product driven by large corporations to a time when it is an idea driven by a desire to make things simpler and smarter."**

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# Taking Advantage of Technology

**TECHNOLOGY IS CHANGING THE WAY WE PRACTICE LAW.** In 1993, when I started practicing, all of my correspondence came by U.S. mail or fax. Every afternoon I would read my mail with a Dictaphone in one hand. The following day my assistant would transcribe my letters and, if no other chaos crossed my desk, within three days I would mail back a response. Now, if I don't respond to an email within hours, I am berated by counsel. The tapes I use for my dictation machine aren't even manufactured any more. I have taken to hoarding them. I dread the day the machine dies.

The demand for an immediate response isn't limited to opposing counsel. Clients also expect an immediate response. Failure to meet the needs of clients results in lost business. We simply cannot ignore the way technology is changing the practice of law. We work in a consumer-driven profession. We practice in a time when our clients get their news from Twitter and Facebook. Few wait for the newspaper to arrive at the front door at 7 a.m. Even fewer will wait three days for a response from their lawyer. Ignoring these changes will impact our livelihood. Our income depends on client retention and client development. We must find a way

to meet our clients' needs and deliver services consistent with their expectations.

It isn't just the pace of the practice that has changed; the tools have changed too. We must encrypt emails, use electronic signatures, type, scan, automate and reduce costs all at the same time. Technology gives us an opportunity to reduce costs and better serve our clients. Take a moment to examine your practice through the eyes of your clients. Where can you automate and eliminate redundancies? What can you do to deliver real value? How quickly do we need to respond?

This issue of law practice management offers practical advice for adopting new technology and presents a glimpse into the way we train and retrain lawyers to competently use technology in their practices. We call this the TECHSHOW Issue because it is a sneak peek into the programming the Law Practice Division will present at TECHSHOW in Chicago on March 15–18. Our hope is that you will find at least one way to better your practice using technology. Rather than feeling overwhelmed by the changes, we hope to encourage you to embrace them. Good, positive things are happening to our practices. We can work from almost anywhere, and research and case law are immediately available at our fingertips.



IMAGE BY MAXSATTANA/THINKSTOCK



The possibilities for expansion are endless, but these perks are only available to those lawyers willing to take steps toward incorporating the technological advances into their current practices.

Robert Ambrogi delves immediately into emerging technologies that will be featured in a competition at TECHSHOW 2017 in his article "A Golden Age of Legal Tech Start-Ups." This is followed by Fred Rooney and Stephanie Everett's discussion of the proliferation of legal incubator programs aimed at training young attorneys and facilitating access to justice for those with lower incomes in "Legal Incubator Programs: An Emerging Movement." Janet Jackson and Andrew Perlman contribute "The ABA Center for Innovation Drives Originality and Access," in which they discuss the ways the ABA is reaching out to help lawyers improve how legal services are accessed and delivered. Following this is Yuri Eliezer's "Enhancing

Your Practice Efficiency with E-Signatures." Ben Schorr then offers a practical guide in "What's New in Microsoft Office for Lawyers," and the issue closes out with "Implementing Encryption Painlessly" by David Ries and John Simek.

Finally, I'd like to acknowledge our two guest columnists, Michael Fleming and Peter Roberts, who contributed, respectively, to the Highlights and Finance columns.

Collegially yours,



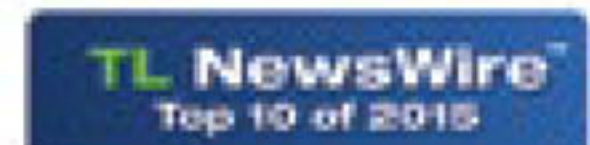
Heidi A. Barcus, Editor-in-Chief

### THANKS TO OUR ISSUE TEAM:

**Team Leaders:** Robert Ambrogi, Steve Best and Lance Johnson



**Heidi A. Barcus** is a partner with London Amburn, PC, in Knoxville, Tennessee. She is past president of the Knoxville Bar Association and certified by the American Board of Professional Liability Attorneys. [hbarcus@londonamburn.com](mailto:hbarcus@londonamburn.com)



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## Ride the Technology Wave

**T**ECHNOLOGY HAS CHANGED ALMOST EVERY facet of practicing law since I came into the profession in 1989. Research, discovery, client communication, business development, document management, knowledge management and most everything else lawyers do day to day has been dramatically impacted by technology. It feels like those changes continue to come at an even faster pace.

Each day companies introduce new products and services to help lawyers do almost everything faster, easier and better. Yet, as I explore these offerings, I am baffled by their complexity. The promise of faster and easier is belied by the learning curve necessary to utilize these new tools fully. While “better” may be possible, it seems like all of this new technology requires a Ph.D. before the promised benefits are realized.

At the same time that these new technologies promise to make the practice of law better for clients and lawyers, a slew of companies are creating products and services specifically designed to displace lawyers’ involvement in meeting a significant range of client needs. These services don’t make lawyers produce legal work faster, easier or better. Instead, they allow clients to obtain legal solutions without using traditional legal service providers and, in many cases, without using lawyers at all.

What does this mean in practical terms? It means on good days the average lawyer is committing malpractice by not being up to speed on the technology issues that impact their practice and their clients. It means that most lawyers spend more time and energy than necessary on basic tasks because they don’t know how to leverage technology. It also means that a significant percentage of the U.S. population is not served, or is underserved,

**Most lawyers spend more time and energy than necessary on basic tasks because they don’t know how to leverage technology.**



by the legal profession, and the people attempting to close that gap are often alternative legal service providers.

While the first two issues may not result in a malpractice claim, the reality is that we’re not doing well by our clients if we don’t know how to manage these issues. We cannot deliver top-notch legal services with limited awareness of the issues impacting our service delivery. If we continue to ignore the significant percentage of the population that is not served or is underserved, we will continue to empower the alternative legal service providers who are eating our lunch.

Technology is creating changes in our profession at such an accelerated rate that it is nearly impossible to keep up. What can we do about this challenge? The ABA has two potential solutions for every practicing lawyer. For those who want answers without becoming experts, there is a new member benefit called ABA Blueprint, initiated by ABA President Linda Klein.

ABA Blueprint is a stand-alone, web-based application aimed at connecting members with the tools they need to run their solo or small-firm practices. Often this will be the first time these lawyers are introduced to some types of technology and related concepts like virtual receptionists using artificial intelligence. This new tool is a way to get up to speed on technology



that helps lawyers practice law and run a law practice without becoming a technology guru.

The second solution is perfect for practitioners who want both tools and an understanding of how those tools actually work. This solution is now in its 31st year, and it has changed the practice of law for thousands of lawyers and countless numbers of clients. ABA TECHSHOW, produced and delivered by LP, is the pre-eminent showcase for diverse legal technologies that can help lawyers provide legal services and run their practices. TECHSHOW, which runs in Chicago from March 15 to 18, provides opportunities to see technology solutions in action and talk directly with people who can demonstrate those tools.

The tidal wave of change that is hitting our profession is

fueled largely by technology. You can learn to surf that wave with ABA Blueprint or hang ten with ABA TECHSHOW. Either way, it's better to learn to ride the wave than be buried under it. I'll be at TECHSHOW getting educated. I hope to see many of you there! **LP**



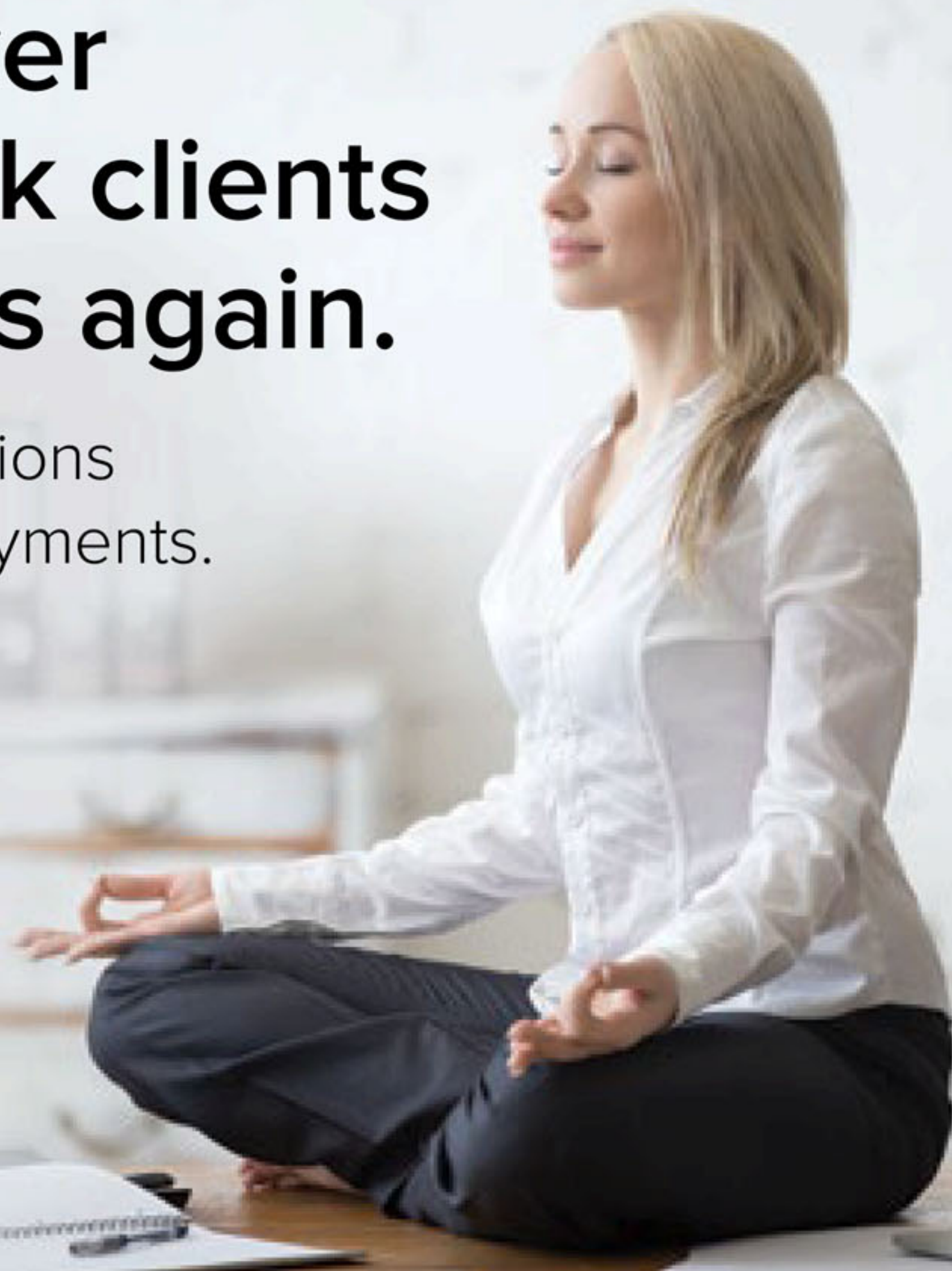
**John “The Purple Coach” Mitchell** is managing director of KM Advisors, LLC in Chicago. He spends his days supporting and advising leaders of law firms and legal departments as they navigate a constantly changing marketplace.

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**Heidi A. Barcus**, hbarcus@londonamburn.com

## EVP, Chief Content Officer

**Kim Caviness**, kcaviness@imaginepub.com

## Managing Editor

**Matthew M. Wright**, mwright@imaginepub.com

## Columns Editor

**Courtney E. Ward-Reichard**, cward@nilanjohnson.com

## Features Editor

**Lance G. Johnson**, lance@gjlegal.com

## Copy Editor

**John Fallahay**, j.fallahay@sbcglobal.net

## Associate Editors

**Alma Bahman**, abahman@imaginepub.com

**Cynthia Thomas**, cynthiat@plmcassociates.com

**Marcia W. Wasserman**, mwasserman@comprehensivemgmt.com

## EVP, Design

**Doug Kelly**, dkelly@imaginepub.com

## Art Director

**Grace Suhr-Kim**, gsuhr-kim@imaginepub.com

## Business Manager

**James A. Calloway**, jimc@okbar.org

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Inc., Northridge, CA, mwasserman@comprehensivemgmt.com

**Patrick A. Wright**, The Wright Firm LLP, Dallas, TX,  
patrick@thewrightlawyers.com

## LAW PRACTICE MAGAZINE

### PUBLISHER

#### ABA Law Practice Division

321 N. Clark St., Chicago, IL 60654 lawpractice.org

#### Production Associate

**Lauren DeGroot**, 312-988-6137, lauren.degroot@americanbar.org

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### ADVERTISING SALES & MEDIA KITS

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# ABA Blueprint: An Innovative Members Benefit for Solos and Small Practices

By Michael Fleming

**UNDERSTANDING THE NEED** of the many lawyers who are choosing to start or improve their own solo or small practices, the ABA has created a new initiative to assist them in choosing, procuring and planning how to use the tools they will need in a modern practice setting. The ABA Blueprint is an online platform that solos and small-firm lawyers can use to choose and procure the products and services they need to manage a law practice. And the full services of the ABA Blueprint platform are available at no charge to ABA members!

ABA Blueprint is a dedicated source for guidance regarding the resources that are available to help a legal practice, and it provides online consulting on the resources that can help a particular practice. A lawyer can also use the ABA Blueprint to identify specific needs his or her practice might have and find appropriate vendors that can address those needs. ABA members gain access to members-only features, including vendor discounts that will more than cover the cost of ABA dues. ABA members can even access consultants via telephone at no charge by using the ABA Blueprint.

The online system is easily accessible through desktop computers and mobile platforms. Users can start the process on any browser at [abablueprint.com](http://abablueprint.com).

The ABA Blueprint was initially released for members in November 2016, and the ABA has continued to add features and functionality to it. The system is managed by CuroLegal ([curolegal.com](http://curolegal.com)), which has worked with the ABA to develop, launch and maintain it.

## WHAT DOES IT DO?

The application has features for all users, but the more advanced features are only available to ABA members.

**All users.** Any lawyer can access the Universal Solutions

portion of the application. This feature allows users to select a law firm need and receive a suite of solutions to address it. The following categories are available as of this writing, but more may be coming in future:

1. Start a Firm Now
2. Help Me Get Paid
3. Help Me Grow
4. Help Me Build a Team
5. Help Me with eDiscovery
6. Help Me Insure My Future

When users click on an area of need, they see the products or services in the suite, they are able to view details on each product or service and then they can navigate to a Blueprint-specific landing page on the vendor's site to make a purchase.

ABA members and nonmembers are able to save the solutions they are interested in and view them all in one place.

**ABA members.** In addition to viewing the Universal Solutions portion of the application, ABA members can access the following features.

1. Access to Firm Builder, a tool that walks members through a series of questions to receive more customized recommendations for products and services. Modules include:
  - a. Technology Basics
  - b. Marketing
  - c. Insurance/Retirement
  - d. Virtual Assistance
2. Access to live chat with a practice management expert.
3. Access to free phone consultations with a practice management expert. These are vetted consultants, from outside the ABA, who have agreed to offer free consultations. They are assigned according to a round-robin system.
4. Codes for discounts to make purchases through vendors'



**The ABA is always looking for better ways to serve its members, and technology tools are certainly a significant part of that effort.**

Blueprint landing pages. A few examples of discounted products or services include a virtual receptionist service designed for solo or small-firm practices and the opportunity to purchase a well-known practice management system used by many law firms. These discounts have been negotiated solely for ABA members.

#### **A SIGN OF THE ABA'S FUTURE**

The ABA is always looking for better ways to serve its members, and technology tools are certainly a significant part of that effort. The ABA Blueprint is an example of a collaboration between the ABA—which brings its members' extensive experience, in addition to the knowledge of its dedicated staff—together with an outside provider that brings a wealth of experience in developing platforms and will allow ABA members to access that collective knowledge. While no plans have been officially announced, the ABA will continue to examine the ABA Blueprint, both to improve the product itself and also to learn how to integrate new methods, such as this online platform, to reach out and assist its membership in today's competitive environment. **LP**



**Michael Fleming** is the deputy general counsel of the supercomputer manufacturer Cray, Inc., and also currently chairs the ABA's Standing Committee on Technology and Information Services. He

wishes to thank Joshua Poje of the ABA Law Practice Division for his assistance in writing this article. **mfleming@cray.com**

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# Writing More Effective Email Messages

By Allison C. Shields

**EMAIL HAS BECOME THE DEFAULT** method of communication for lawyers and other professionals, and it can be quick and effective when used properly. But lawyers are inundated by a flood of email messages day and night, many of which are decidedly ineffective. Effective use of email is a skill that should be mastered, particularly since it has become the main method lawyers use to communicate with colleagues, clients and adversaries.

Email messages that are unclear, misleading, poorly written or contain too much or too little information can leave a poor impression on the recipient, damage your reputation, waste resources and drain productivity.

Email doesn't include the social cues that we receive when speaking face to face (i.e., facial expression and body language) or even by telephone (i.e., voice tone, volume and inflection), which makes email a form of communication that is much



IMAGE BY LLHEDGEHOG/THINKSTOCK



**Even if the recipient is someone you email frequently, include a short, personal greeting; emails with no greeting can come across as gruff and off-putting.**

more likely to be misunderstood or misconstrued. Thus more care, not less, should be taken when drafting email messages. Take the time to formulate your message so that the recipient knows immediately what the email is about and what they need to do next. If your message isn't clear, if questions are buried or the email does not contain important information the recipient needs to respond, you're likely to generate a lot of additional, unnecessary messages.

Instead of rushing through your email inbox and firing off replies or sending an email message in a rush, take a step back and re-evaluate first whether email is the correct tool for the communication or whether making a telephone call or having a face-to-face discussion would provide a better, more effective result. If email is the correct tool, take the time to craft an email that is more likely to get results—in other words, to get read and acted upon quickly and easily.

### **SUCCESSFUL EMAILS**

First, think about the reason you're sending this email. What are you seeking to accomplish? Are you simply conveying information? Setting or confirming a meeting date? Asking for a favor? Providing instructions?

Vague subject lines may cause your email to linger in the recipient's inbox. Craft your subject line carefully so that it clearly indicates the purpose of the email and gives the recipient a reason to open it. Keep your message to one subject; if you need to discuss an additional topic with the same recipient or recipients, send a separate message. If an email string goes off course from the original subject and veers into another topic of discussion, change the subject line to reflect the new focus of the message.

Don't leave out the greeting. Even if the recipient is someone you email frequently, include a short, personal greeting; emails with no greeting can come across as gruff and off-putting. Your greeting or introductory sentence provides context for the email, reminds the recipient who you are or how you're connected to them, or serves

as a preface to the rest of the email. If you're writing to someone for the first time, it is especially important to make sure you introduce yourself properly.

### **FOCUS YOUR CONTENT**

Consider your audience; your email message should be written with the specific recipient in mind. Are you writing to opposing counsel, your client or the senior partner in your firm? Is this someone you're trying to impress? Your tone and phrasing should change depending upon whom you're writing to.

No one wants to spend the time trying to figure out what you're trying to say in your email. The body of your email should be clear and concise, and if you're writing to a layperson such as a client, get rid of the legal jargon. Get to the point early in the message and tell the recipients why the action you're requesting them to take will benefit them. Keep paragraphs to only a few lines or sentences; long blocks of text deter readers. Make it easy to read by using bullets or lists. If you're asking multiple questions or need multiple responses within the same email, be sure to clearly delineate them so the recipient knows how many items require a response.

Write in plain language and check that your tone is appropriate for the situation and the recipient. Put yourself in the recipient's shoes and read the message to be sure that your purpose is clear and there is nothing in the message that is open to interpretation. If you're writing about a case, make sure that you include all of the identifying information the recipient will need to easily determine which matter and which client you're referring to.

Don't send an email when you're angry or emotional. Get it out of your system by venting in writing, if necessary, but walk away and give yourself some time to think before hitting the Send button. Angry or emotional emails rarely accomplish anything and more often serve to escalate the situation. Remember that the recipient may share your email with others; consider how you would feel or how it would impact your reputation if your email message somehow became public. If it doesn't represent you well, revise it, or delete it.

Include a call to action or next steps. Tell the recipient whether your email requires a response, what you want them to do and the deadline for that response or action. If you're asking multiple questions or need multiple responses within the same email, be sure to clearly delineate them so the recipient knows how many items require a response. Anticipate questions your recipient is likely to ask.





PHOTO BY RIDOFRANZL/THINKSTOCK

**Include a call to action or next steps. Tell your recipient whether your email **requires a response, what you want them to do and the deadline for that response or action.****

#### FINAL THOUGHTS

Include a signature and your contact information on every email you send. It's easy enough to create a signature that is automatically included in every message and that contains your name, position, firm name, email address and telephone number. Don't make the recipient go searching for your information or wonder who's sending the email based solely on your email address.

Before you send, proofread! An email message that is rife with spelling and grammar mistakes, or is missing punctuation or capitalization, impresses no one. Keep exclamation points to a minimum and keep emoticons out of professional email messages. The quality of your email communication conveys something about you and the seriousness with which you approach your clients and your practice, just as your clothing does. Make sure you've spelled all names—especially the recipient's name—correctly. Double-check that you have the proper recipient in the address bar. You may prefer to draft

the body of the email first and put the recipient in last to avoid accidentally misdirecting an email message.

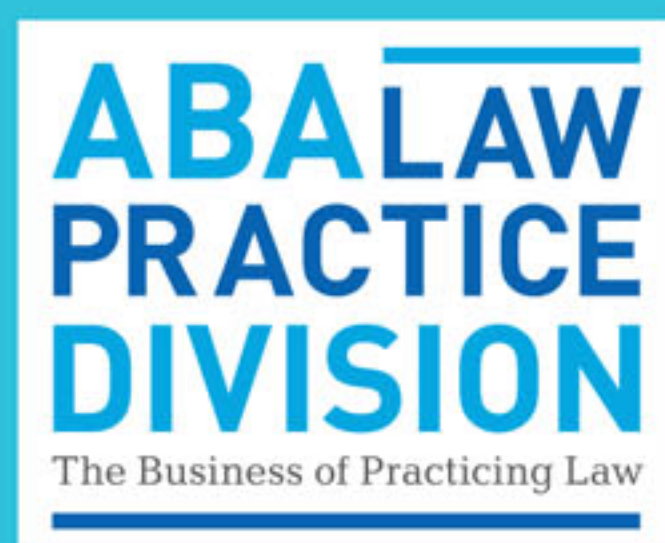
You can also make your email communication more effective by developing better habits as an email recipient. Respond promptly to messages you receive. If you don't have an immediate answer, respond that you received the email and provide a time by when you will respond more completely. Don't hit Reply All unless it's absolutely necessary. Think carefully about whether every recipient of the original message will need to see your response. You don't want your inbox cluttered—so don't clutter up someone else's inbox with unnecessary messages.

Taking a little extra time and following these tips before you hit Send on your email messages can make your messages much more likely to be opened, read and acted upon the first time, saving both you and the recipient precious time and reducing—if only just a little—that flood of emails into your inbox. **LP**



**Allison C. Shields** is the president of Legal Ease Consulting, Inc., where she works with lawyers and law firms to develop strategies to improve marketing and client service, and increase productivity, efficiency and profitability. She is the co-author of several books, including *LinkedIn in One Hour for Lawyers* (ABA 2013) and *How to Do More in Less Time: The Complete Guide to Increasing Your Productivity and Improving Your Bottom Line* (ABA 2014). [allison@legaleaseconsulting.com](mailto:allison@legaleaseconsulting.com)

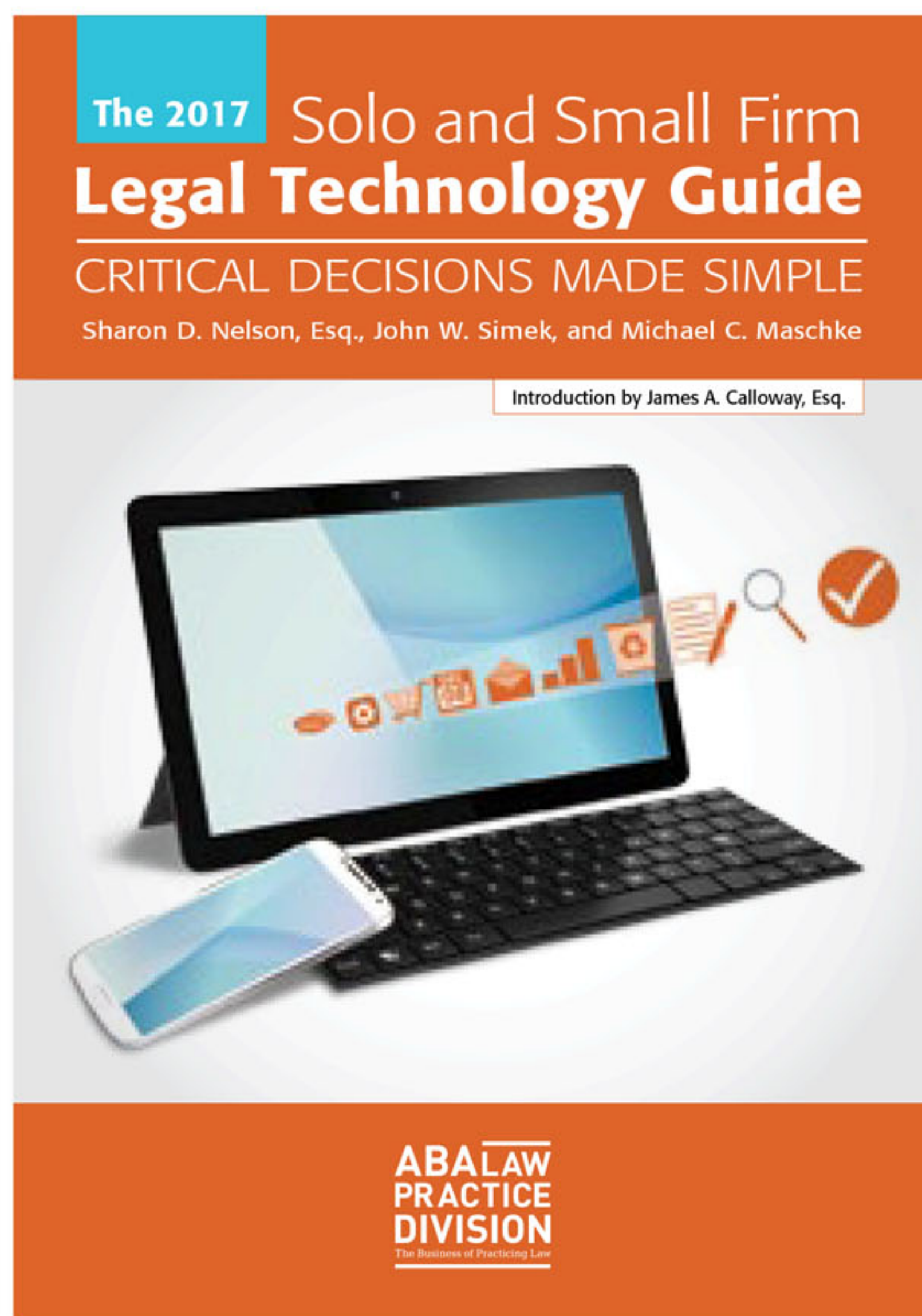




# The 2017 Solo and Small Firm Legal Technology Guide

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by Sharon D. Nelson, Esq., John W. Simek, and Michael C. Maschke  
Introduction by James A. Calloway, Esq.



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# Legal Ethics, Referral Fees and Internet Advertising

By Michael Downey

**MANY LAWYERS TODAY FEEL** pressure to purchase internet advertising. But many of those same lawyers feel uncertain about what the legal ethics rules permit when purchasing internet advertising. Internet advertisers, meanwhile, are sometimes willing to offer advertising programs that may violate the ethics rules, particularly rules limiting fee sharing with, and payment of, referral fees to nonlawyers.

In an attempt to clarify how the ethics rules permit lawyers to pay for internet advertising, this column examines the ethical limitations on referral fees and fee sharing, as well as how those restrictions translate to online advertising platforms.

## THE RULE 5.4(A) PROHIBITION AGAINST FEE SHARING

The primary legal ethics rules that limit referral fees and fee sharing are ABA Model Rules of Professional Conduct 5.4(a) and 7.2(b). Rule 5.4(a) generally prohibits a lawyer from sharing legal fees with a nonlawyer.

Rule 5.4(a) states that, except as provided in the rule, “A lawyer or law firm shall not share legal fees with a nonlawyer.” It does recognize four relatively narrow exceptions to this general prohibition, but these exceptions generally have little relevance to internet advertising. Instead they permit lawyers to share fees with a lawyer’s estate in conjunction with a Rule 1.17 sale of a law practice or upon the death of a lawyer; payments to profit-sharing plans for nonlawyer employees of a law firm; and payments to nonprofit organizations that employ, retain or recommend the lawyer for a particular matter.

Although states vary on the existence and their enforcement of a prohibition against fee sharing, generally Rule 5.4(a) prohibits lawyers from entering any arrangement with a nonlawyer that involves the lawyer splitting a fee with a nonlawyer. Prior ethics opinions or lawyer discipline cases caution lawyers from engaging in a wide range of such fee-sharing activities, including ones that say lawyers cannot pay a percentage of a fee to a nonlawyer or allow a nonlawyer to bill clients for legal document preparation if they then split the fee with the lawyer.

## THE RULE 7.2(B) LIMITATION ON PAYING FOR REFERRALS

Rule 7.2(b), meanwhile, prohibits a lawyer from paying a

nonlawyer to recommend the lawyer to potential clients. The opening words of Rule 7.2(b) state, “A lawyer shall not give anything of value to a person for recommending the lawyer’s services.” This prohibition is normally understood to prohibit both direct and indirect payment of referral fees. Thus a lawyer cannot provide someone with work at reduced rates or other benefits as a reward for referring other prospects to the lawyer. This prohibition encompasses a broad range of communications. The Comment to Rule 7.2(b) explains that “[a] communication contains a recommendation if it endorses or vouches for a lawyer’s credentials, abilities, competence, character or other professional qualities.”

Like Rule 5.4(a), Rule 7.2(b) has four exceptions when payments for recommending work are permitted. One of these exceptions is quite broad in that it allows lawyers to pay “the reasonable costs of advertising or communications” otherwise permitted under the ethics rules. This is really the only exception that tends to impact a lawyer’s ability to pay for internet advertising.

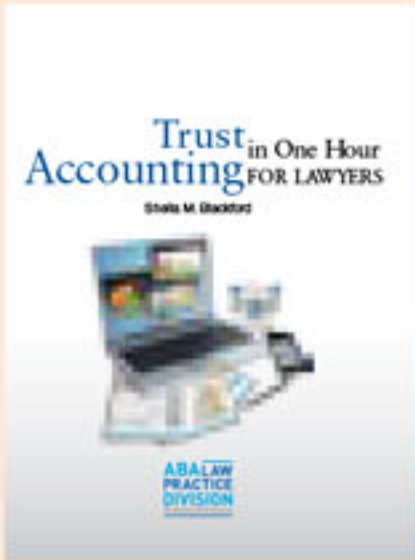
The other exceptions generally would not implicate internet advertising. Rather, the other Rule 5.4(a) exceptions relate to payments to qualified nonprofit lawyer referral programs, which tend to be quite limited and normally operate under a state or local bar association; payments in conjunction with a lawyer’s sale of a law practice under Rule 1.17; and nonexclusive referral arrangements that lawyers may establish with other professionals.

The key to understanding Rules 5.4(a) and Rule 7.2(b)—and the fact that Rule 7.2(b) permits payments for advertising but not for referrals—often requires the lawyer to consider how a payment arrangement really works. If the lawyer must pay the advertiser only if the client retains the lawyer, or the amount of payment owed to an advertiser or referral source goes up based upon the amount of fees the referred prospect generates, these are often serious warning signs the arrangement is a disguised fee-sharing arrangement and violates Rule 5.4 or 7.2—or both. Likewise, if the total amount paid to the advertiser or referral source seems significantly greater than what other (nonlaw firm) businesses would pay to be recommended, this also should serve as a warning sign the arrangement may be improper.



# BOOK SPOTLIGHT

NEW AND NOTABLE BOOKS AND RESOURCES FOR THE BUSINESS OF PRACTICING LAW.



## Trust Accounting in One Hour for Lawyers

By Sheila M. Blackford

Trust accounting is one area that no one can afford to overlook, but busy lawyers don't have time or resources to waste. Lawyers who are leaving their law firms to establish their own solo practice or small firm need this simple primer to fulfill their ethical and fiduciary responsibilities to safeguard the money belonging to their clients. *Trust Accounting in One Hour for Lawyers* is a practical how-to book that will guide you quickly from opening your lawyer trust account to properly using it and providing accurate, timely accountings to your clients. In this book, author Sheila M. Blackford, an experienced practice management advisor, shares common sense advice to help busy lawyers and their staff safely and sanely adopt best practices and avoid ethical violations.



## Creating an Online Publishing Strategy for Law Firms

By Steve Matthews and Jordan Furlong

Publishing may very well be the oldest form of legal marketing, but because it's so simple to do, it's easy to get wrong. Although almost every lawyer publishes, few lawyers do so effectively. A publishing strategy is the critical link between a law firm's business development and its content marketing effort. A strategic framework is the best way to maximize the effectiveness, satisfaction and measurable results of your firm's publishing efforts. Highlights include designing a strategy to guide your firm's publishing efforts, selecting the best platforms for your content, and distributing your content through a variety of channels.

## APPLYING RULES 5.4(A) AND 7.2(B) TO INTERNET ADVERTISING

Following on these basic understandings, ethics authorities generally recognize the following guidelines for lawyers purchasing internet advertising:

1. Lawyers may pay a reasonable amount for advertising where the payment provides advertising for a time period, for example, a monthly or annual fee.
2. Lawyers may also pay a reasonable amount for advertising where the payment becomes due when the client clicks on the advertisement or submits information. This is generally known as "pay-per-click" or "pay-per-lead" advertising.
3. Lawyers may not pay any amount for advertising where the payment constitutes a percentage of attorney fees received or a payment due because the referred party becomes a client.

Under Rules 5.3 and 8.4(a), lawyers should expect to be held responsible for anything said about them by someone the lawyers are paying. Thus all statements must be fully candid and otherwise comply with ethical rules relating to statements about the lawyers' services, including the Rule 7.1 prohibition against misleading statements and the Rule 7.5 limitation on claiming special expertise.

Consistent with these principles, the 2012 amendment of Comment 5 to Model Rule 7.2 informs lawyers that they may pay for "generating client leads, such as internet-based client leads, as long as the lead generator does not recommend the lawyer, any payment to the lead generator is consistent with Rules 1.5(e) (division of fees) and 5.4 (professional independence of the lawyer), and the lead generator's communications are consistent with Rule 7.1 (communications

concerning a lawyer's services)." Rule 7.1, in turn, requires the lead generator to be fully candid about the lawyer's services as well as the relationship between the lead generator and the lawyer. The lead generator may not, for example, falsely indicate lawyers are included among the group of lawyers who may be recommended based upon their practice expertise or extraordinary qualifications when in fact the only reason they are included as lawyers eligible for referrals is because they have paid the required fee.

## CONCLUSION

When evaluating internet advertising proposals, lawyers should be very careful to conduct their own careful analysis under the guidelines described in this column. After all, it is your license that you are placing at risk. Too often advertisers will try to claim their advertising arrangement must be ethical because lots of other lawyers are doing it. Disciplinary counsel may not find this compelling when the arrangement is in fact unethical. You do not want to be the test case—and place your time, resources and license at risk of loss—should disciplinary counsel decide to challenge a questionable arrangement and see if it passes muster under the relevant ethics rules. **LP**



**Michael Downey** manages Downey Law Group LLC, a law firm devoted to legal ethics and the law of lawyering. [mdowney@downeylawgroup.com](mailto:mdowney@downeylawgroup.com)



# From TECHSHOW to Alaska: Join Us!

By Joshua Poje

**SHORTLY AFTER I JOINED** the ABA staff in 2007, I began hearing buzz about ABA TECHSHOW. The sessions, the personalities, the exhibit hall—people spoke about it with an excitement and reverence that were hard to understand, having never personally experienced it. But when I finally attended my first TECHSHOW the following March, it all began to make sense.

The experience was, if you'll forgive the cliché, like drinking from a fire hose. In just a few short hours in the exhibit hall, I was able to get hands-on with dozens of products I'd previously only read about. I compared features, not by reading a few lines of tired prose on a website but by going from booth to booth, seeing equivalent features actually put into action.

The hands-on experience of the exhibit hall was paired with a dizzying bounty of educational sessions. I learned about ethics issues in e-discovery from Judge Herbert Dixon, Sharon Nelson and Dave Ries. I saw innovative trial presentation techniques from Nils Jensen and Paul Unger. I heard Marc Rotenberg, that year's keynote speaker, raise serious concerns about electronic privacy that would echo for years to come.

These experiences are hardly unique, and that's why ABA TECHSHOW is one of the Law Practice Division's (LP) "crown jewels" each year. If you're reading this because you picked up a free copy of the magazine at TECHSHOW or had one in your attendee bag, I urge you to explore LP's many other jewels (including this excellent magazine). If you're a long-time LP member who has yet to attend a TECHSHOW, it's never too late! Planning is already underway for ABA TECHSHOW 2018. Stay tuned to [techshow.com](http://techshow.com).

## STAY AHEAD OF THE CURVE

Each year, the ABA Legal Technology Resource Center (LTRC)—which operates under the LP umbrella—produces a comprehensive survey of lawyers' technology use. The survey is an invaluable resource to academics, developers, technology committees and others but, at over 700 pages, can be a little overwhelming for the average practitioner. That's why the

## ABA LAW PRACTICE DIVISION **UPCOMING EVENTS**

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LTRC launched ABA TECHREPORT in 2013.

TECHREPORT brings together some of the leading technology experts from LP and LTRC to review, analyze and summarize the trends in the LTRC survey. TECHREPORT features 10 separate articles, each addressing a major issue in technology—such as cloud computing or security. It's available for free to all.

So if you weren't able to make it to ABA TECHSHOW this year, take a look at ABA TECHREPORT and get yourself up to speed on the latest trends. You can find it at [ambar.org/techreport](http://ambar.org/techreport).

## JOIN LP IN ANCHORAGE

Always wanted an excuse to visit Alaska? Join your colleagues from LP at the Alyeska Resort outside of Anchorage for LP's Spring Meeting. The meeting will run from May 24 to 27. Take the opportunity to get involved with one of LP's many boards and committees, network with colleagues and, of course, explore the beautiful scenery. Look for details about LP's Spring Meeting and other events at [lawpractice.org](http://lawpractice.org). **LP**



**Joshua Poje** is the director of the ABA Law Practice Division in Chicago. He also serves as director of the ABA Legal Technology Resource Center. [joshua.poje@americanbar.org](mailto:joshua.poje@americanbar.org)



# Microsoft® OneNote in One Hour for Lawyers

by Ben M. Schorr

SECOND EDITION

## Microsoft® **OneNote** in One Hour FOR LAWYERS

BEN M. SCHORR



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# ThinkPad T460s: An Ultrabook Lawyers Can Love

By Robert J. Ambrogio

## HERE'S THE THING ABOUT THINKPADS:

They are tough as nails and seem to run forever. Over 16 years of owning ThinkPad laptops, I've dropped them on hard floors, spilled beverages over their keyboards and toted them through travels far and wide. Every one I've owned still runs. So when I was in the market for a new laptop, my choice of brand was a no-brainer. A Lenovo ThinkPad it would be. My only question was, Which model?

That decision was not so easy. I knew I wanted an Ultrabook, which is a specification designating thin and light laptops with good battery life, generally using low-power Intel Core processors and solid-state drives.

Lenovo's ThinkPad lineup offers a variety of Ultrabooks. There is the ThinkPad X1 Carbon, the thinnest and lightest ThinkPad at a weight of 2.6 pounds but with military-grade carbon fiber construction. There is the ThinkPad X1 Yoga, a tablet-laptop convertible that contorts into four usage modes. And there is the ThinkPad T460, a heavier Ultrabook at 3.8 pounds with more features for the business user. (By comparison, the MacBook Air starts at 2.96 pounds.)

Tempting choices all. But after way too much deliberation, I chose a different option: the ThinkPad T460s, a lighter cousin to the T460, weighing in at 3 pounds, but with more of the features I wanted than could be had with the ultralight X1 Carbon. I have not been sorry.



IMAGE COURTESY OF LENOVO



**The T460s also comes with Intel vPro, which allows IT departments to remotely manage device security and protocols, and Trusted Platform Module, which can be used to secure hardware by integrating cryptographic keys into devices.**

### CONFIGURING MY LAPTOP

Lenovo advertises the T460s as an enterprise-ready 14-inch Ultrabook. The best way to buy one is directly through Lenovo's website, where you can configure your laptop with the processor, hard drive, memory and other options you prefer. As of this writing, prices for the T460s range from \$980 to nearly \$2,500 if it's fully decked out.

Available processors range from the 2.8 GHz Intel Core i5-6200U to the 3.4 GHz Intel Core i7-6600U. Memory in the T460s can be expanded up to 20 GB. A selection of solid-state hard drives up to 1 TB are available.

Base models come with a full HD 1,920-by-1,080 resolution antiglare screen. An upgrade adds touch to the screen at the same resolution. Also available is a Wide Quad HD 2,560-by-1,440-resolution nontouchscreen with a 16:9 aspect ratio.

I opted for a model with the i7-6600U processor, 12 GB of memory, the touch screen and a 256 GB solid-state drive. Other

options I chose included Windows 10 Professional, a backlit keyboard and a fingerprint reader. My total price came to just under \$1,300.

All models come with Intel HD Graphics 520, a 720p HD camera, Dolby Home Theater v4 audio, a 4-in-1 card reader, a headphone/microphone jack, Intel vPro 2x2 802.11 a/c and Bluetooth 4.1.

For ports, the T460s has three USB 3.0 ports (one an Always On connector for charging devices even when the laptop is powered off), an RJ45 port for Ethernet and a mini DisplayPort and HDMI port for video out. (If you need a VGA port, look to the T460 or get a docking station.) It also has a Kensington lock slot. A smart card reader is optional. On the bottom of the laptop is a docking port for use with Lenovo's ThinkPad Ultra Dock.

### PUTTING IT TO WORK

When the delivery from Lenovo arrived, I was amazed at the lightness of the package, even before I opened it. Once I slid out the

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laptop, it felt just as I had hoped—thin and feather light.

But this laptop is no lightweight in toughness. The T460s has a carbon fiber–reinforced lid and a magnesium body. Lenovo says that the T460s has passed Mil-SPEC 810G durability tests to withstand extreme temperatures, high altitudes, humidity, vibrations and electrostatic discharges.

The T460s also has features to satisfy the security minded. As noted, a fingerprint reader is available for secure logins. Unlike the swipe fingerprint readers on earlier ThinkPad models, this is a touch reader that requires just a brief tap with your fingertip. The T460s also comes with Intel vPro, which allows IT departments to remotely manage device security and protocols, and Trusted Platform Module, which can be used to secure hardware by integrating cryptographic keys into devices.

Strength and security are important. But to me what matters most in a laptop is how it feels to work on. In this regard, the T460s is my idea of perfection. T-series ThinkPads have a reputation for exceptional keyboards, and the T460s lives up to its family name. The comfortable keys are a modified chiclet style with a slightly curved surface. They provide the tactile feedback

and deep movement of a desktop keyboard, making them a pleasure to type on. The keyboard is spill resistant and has two levels of backlighting.

And then there is the TrackPoint. This is the defining feature of a ThinkPad but one that leaves non-ThinkPad users scratching their heads. The TrackPoint is a small red nub between the G and H keys that performs the function of a mouse or touchpad—but better, as ThinkPad aficionados will swear. It provides greater accuracy than a touchpad without requiring your fingers to leave the keyboard. But for the touchpad lover, there is a 3.9 x 2.2-inch buttonless trackpad. Its matte surface provides subtle friction. It responds well to both Lenovo and Windows 10 multitouch gestures.

The laptop's touchscreen provides sharp images and good viewing angles. Unlike most touchscreen laptops, which require a reflective layer on top of the LCD panel, the T460s uses Lenovo's In-Cell Touch technology, which builds the touch sensor directly into the LCD components. The result is a thinner display with a bright matte surface that is highly readable.

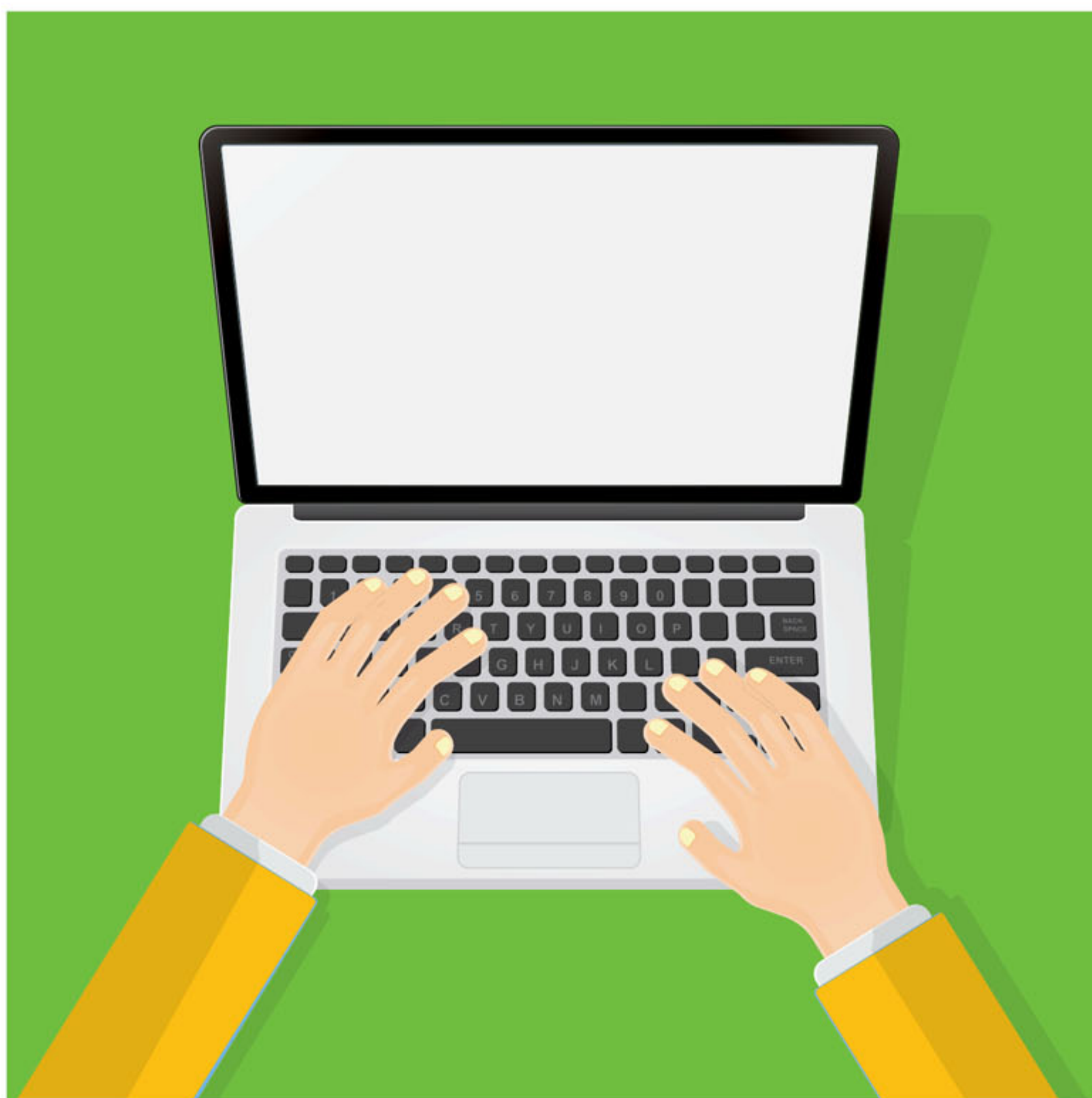
When using an external monitor, the T460s supports displays of up to 2,560 x 1,600 pixels using the mini DisplayPort connector and up to 4,096 x 2,160 pixels using the HDMI connector.

Two other features are worth noting. One is the audio, which is quite good for a business Ultrabook. The Dolby Audio software has an equalizer to adjust sound settings and comes with presets for movies, music, games and voice. The other is the 720p HD webcam with dual microphones, which provides good-quality images and sound for videocalls and conferencing, even in lower light settings.

### AND NOW THE BAD NEWS

My prepurchase research alerted me to one reported weak point with this laptop—its battery life. Its predecessor model, the ThinkPad T450s, had been widely praised as one of the best business laptops on the market, in part because of its 12-hour battery life. That was thanks to a dual-battery construction in which one of the two batteries could be swapped out for a high-capacity extended battery.

While the T460s retains the dual batteries, Lenovo eliminated the ability to remove one of them to make this model slimmer. Lenovo rates the battery life at up to 10 hours. However, tests published by several laptop reviewers rate the life





at roughly eight hours on average. (This is the same as the T450s did without a high-capacity replacement battery.) User reviews on Lenovo's website complain of even shorter battery life.

For me, battery life was not a deal breaker. Rarely do I work unplugged except when traveling. If I get six hours on batteries, let alone eight or 10, I'm good. In my mind, the features the laptop does have outweighed the less-than-satisfactory battery life. If this is a concern, then look at the T460, which retains the hot-swappable battery configuration.

### THE BOTTOM LINE

ThinkPads have a well-deserved reputation as among the best business laptops. They are durable and secure and a pleasure

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**Robert J. Ambrogi** is a lawyer in Massachusetts. He publishes the award-winning blog LawSites and co-hosts the longest-running legal podcast, Lawyer 2 Lawyer. [ambrogi@legaline.com](mailto:ambrogi@legaline.com)



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# Securing Your Law Firm's Website: A Critical Cybersecurity Task

By Sharon D. Nelson & John W. Simek

**ONE OF A LAW FIRM'S MOST CRITICAL** assets is its website—and yet protecting it is a priority that is often overlooked. Reading this and you're not in a law firm? The same rules apply, so keep reading!

A lot of lawyers simply don't think about protecting their websites. They ask why anyone would target them, especially if they are solos or small firms. The sad truth is that, today, the majority of attacks against websites are automated. The bad guys throw out a net looking for websites with vulnerabilities and pull in whatever insecure fish they can find—along with any data held on your website.

If you are targeted, the risk is much greater. In all likelihood, you are now facing a more sophisticated attacker with a clear agenda who is likely to have more sophisticated tools.

## WHO'S HOSTING YOUR SITE?

One of the threshold questions is, Where is your website held? Are you hosting your own website, or is someone else hosting it? For many years, we have advised law firms not to host their own websites. Some years ago, one client decided to ignore our advice. The managing partner came to work one day to find that the firm website home page said "F\*\*\* the U.S. Government!" Not precisely the best image for a law firm website!

Also, if you host your own website on your network, all of your data may be compromised if the website is breached. Another very unhappy thought. Much better to put the security of your website in the hands of another company that has experience in providing website security.

## OTHER POTENTIAL ISSUES

Remember that many websites have been taken over by hackers—and the results are never pretty. Your website is your public face. Any compromise of that face, which is generally your primary advertising vehicle, is going to constitute a gut punch to your law firm's reputation.



So if your website is redirected to a pornography site (yes, it has happened), you will be tearing your hair out trying to fix the mess. Sometimes, things like this are done because a hacktivist—a hacker with a political agenda—doesn't like one of the clients you've represented. Sometimes hacktivists may try to extort money in exchange for putting things right or for not using the data they were able to harvest.

In this day and age, websites can have a lot of functions. Many collect information from prospective clients, including email addresses, phone numbers, etc. This information can be sold on the dark web. If you have a client portal through

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## Frequently, websites run on open source software, and people download software that comes with vulnerabilities already in it.

your website and that gets breached, the extent of the disaster is compounded exponentially.

Larger websites of large law firms have a considerable amount of computing power at their beck and call. It's possible for a bad guy to use that power to mess with you or to attack someone else—with you in the middle of the mess. If, indeed, you are collecting emails on your website, cybercriminals may use them for phishing purposes, sending messages far and wide in the hopes of compromising someone else.

The problem with websites is that you want everyone to have

access to your website, which makes it public and vulnerable. If you have a lot of applications and interactivity on the website, it is that much more vulnerable because code is running those functions, which heightens the possibility that the code has vulnerabilities. Custom coding is often riddled with weaknesses.

Hackers routinely probe websites for vulnerabilities—a weak coding practice by a developer that adds functionality is a potential gold mine. The hacker may be able to submit commands to extract data from your database in a way not intended by the developer. This particular nightmare is known

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as an SQL injection, and boy, oh boy, have we seen a lot of those.

Then there is cross-site scripting (XSS) in which an attacker uses XSS to inject scripts that run on the user's computer into web pages viewed by others. The attacker can use XSS to control a web browser and/or modify how content is displayed on a website. You can only imagine the mischief that the attacker can create.

Even the old-fashioned brute force attacks have been known to work. It's a dangerous world—and over 1 billion websites are out there waiting to be compromised.

Frequently, websites run on open source software, and people download software that comes with vulnerabilities already in it. You must be careful to proactively patch your site as security updates become available.

### IT HAPPENS EVERY DAY

As we type this article, here is a headline from Naked Security: "Critical Vulnerabilities Pose a Serious Threat to Joomla Sites." The post says "Joomla, the world's second most popular web content management system (CMS), has been under sustained attack for several days, thanks to a nasty pair of vulnerabilities . . ."

Apparently, flaws in Joomla's user registration code could allow an attacker to "register on a site when registration has been disabled" and then "register . . . with elevated privileges." This means that the vulnerabilities could be used to unlock any site running Joomla, anywhere on the internet, with little more than a request detailing what you'd like to be called and how much authorization you want (and, of course, everyone would want administrator rights). And there are millions of vulnerable Joomla sites.

The culprits here were "incorrect use of unfiltered data" and "inadequate checks"—we've been reading those words for the last 20 years of web vulnerabilities. The solution, for anyone running an unpatched version of Joomla, is to upgrade to version 3.6.4 (which removes the vulnerable code) and then test their website for any indication that it has been compromised.

How many times have WordPress websites been impacted? A lot, due to the popularity of WordPress. In one 2014 incident more than 100,000 websites were affected. And a heck of a lot of legal websites use WordPress.

**You should be as prepared for a website breach as a breach of your network. You manage the risk in part by simply planning.**

### ADDRESSING WEBSITE INCURSIONS

So what do you need to do to avoid this morass? You need website vulnerability detection and management. Some website providers offer this, but many do not. There are products that identify and remove malware from your website. There are website firewalls that you can use to block attacks—targeted or not. Tools today tend to be affordable for law firms of any size—some are even free, though we would be suspicious of their quality. To find examples, Google "website malware scanners" and "website firewalls."

Everyone would like a security blanket that is 100-percent effective but "wanting ain't getting"—and there is no such thing as 100-percent-effective cybersecurity solutions. If a vendor claims to have a 100-percent solution, beat a hasty retreat.

So what if the worst happens and your website is compromised? You should be as prepared for a website breach as a breach of your network. You manage the risk in part by simply planning. An incident response plan should cover website breaches and detail the legal authorities to be notified, the steps to take to comply with state data breach notification laws and the processes for notifying those whose data may have been compromised.

In this new era of websites, we are seeing law firms trying to achieve a great interactive experience for their clients. Clients love client portals and love the interactivity, but the more complicated the site and the more interactive it is, the greater the "attack surface"—and the more likely the site is to have vulnerabilities making it susceptible to attack. All the neat, whiz-bang features are wonderful, but you need to work with experts to secure those features. And those wonderful web applications? They (and their custom coding) account for 80 percent of website vulnerabilities.

We recently had the opportunity to talk with Neill Feather, the president of SiteLock, a firm that specializes in website security, in the course of recording a Digital Detectives podcast for Legal Talk Network. (Disclosure: SiteLock is a sponsor of that podcast.) It was a fascinating conversation because we frankly had never interviewed anyone who specialized specifically in website security. To find other such companies, just Google "website security company"—and make sure you get references.

As Feather said, firms continually underestimate the risk of being attacked. He hears them say, "I didn't know this was something I needed to be worried about." When we asked him about making a prediction about the future of website security, always a risky proposition, he said—and we agree—that the "internet of things" is revolutionizing security. He expects internet-of-things devices to make website attacks



more frequent, with less opportunity to bask in obscurity, thinking one is safe. More and more, website owners—law firms included—will need to take proactive steps to protect their websites.

Lawyers tend to view security as an unwelcome chore—and having to address website security in addition to network security just gives them a monumental headache. But the flip side is to think of website security as enabling. You can do neat stuff with a client portal and other website features giving clients a better experience. This feeds into very successful marketing and, ultimately, client satisfaction born of a great website experience.

You have a lot to gain by building an interactive website with a client portal. But never lose sight of security, or you may tarnish your brand's reputation if your website is compromised. Hindsight may not be much of a balm if that happens! **LP**



**Sharon D. Nelson** is a practicing attorney and the president of Sensei Enterprises, Inc. Ms. Nelson is a past president of the Virginia State Bar and the co-author of 14 books published by the ABA. [snelson@senseient.com](mailto:snelson@senseient.com)



**John W. Simek** is the vice president of Sensei Enterprises, Inc. He is an EnCase Certified Examiner (EnCE) and a nationally known testifying expert in the area of digital forensics. Together, the authors provide legal technology, information security and digital forensics from their Fairfax, Virginia, firm. 703-359-0700; [senseient.com](http://senseient.com); [jsimek@senseient.com](mailto:jsimek@senseient.com)

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# The Battle of the Workplace Messaging Apps

By Tom Mighell

**OF ALL THE SKILLS IMPORTANT TO** being an effective, capable lawyer, the ability to communicate may be the most critical. That's why many lawyers find it so frustrating that the one technology tool designed to facilitate communications both inside and outside a law firm—email—is so maddeningly inconsistent at its job.

Don't get me wrong; email has long surpassed the snail variety for quickly transferring information from one person to another, and in that respect it's very good at what it does. But by its very nature, email has limitations. Each user has his or her own silo of information to manage, and most lawyers choose not to manage it at all—or not very well, anyway. Email is not

a great collaboration tool; it's lousy as a document manager; it decentralizes information the team needs to see, and it's hard to keep everyone on the same page.

At least partly in response to the shortcomings of email, several companies have been working on ways to reinvent communications within the workplace. The crazy-popular tool that got it all started is Slack, which describes itself simply as “a messaging app for teams.” As we'll see, Slack is quite a bit more than that. And its success as a messaging platform has led companies like Microsoft and Facebook to introduce their own workplace messaging tools, respectively called Teams and Workplace. In this edition of The Digital Toolkit, we'll take a look at how these tools aim to help teams—and, in this instance, law firms—better communicate and collaborate with each other. Could a team messaging app be in your firm's future?

## SLACK: THE CURRENT LEADER OF THE PACK

At its core, Slack truly is a glorified messaging system. Its interface is a simple chat box for sending and receiving messages. But to truly collaborate, we need more than just chat, right? We need to assign tasks, work on documents and create project plans. Slack understands that, to be successful, a messaging platform must surround itself with powerful productivity tools, but more importantly, powerful productivity tools that you probably already use. So you can connect Slack to your Dropbox or Box account and easily share files with your team. You can connect Slack to your Trello or Todoist or Wunderlist task manager so everyone knows the tasks assigned to them. You can connect Slack to Salesforce or other customer relationship manager tools





**Slack understands that, to be successful, a messaging platform must surround itself with powerful productivity tools, but more importantly, powerful productivity tools that you probably already use.**

so you can share information about new, existing or potential clients. You can even set up bots within Slack to perform routine automated tasks, such as conducting status meetings with your lawyers or scheduling meetings with the team.

And the beauty of these integrations is that you can do most all of it from within the Slack interface. You don't need to visit Dropbox, or Trello or Salesforce to get the information you need; it's all available to you within Slack. That kind of centralized integration of all of those tools is truly revolutionary.

Slack allows you to create "channels" that can be limited to specific teams within your firm. For example, you can create a channel for a particular client or litigation matter. You can create a channel for general firm administrative activities, or marketing, or CLE. You can create private channels for restricted groups of people or send private direct messages to individual users. Communications on each channel are kept separate from the others, and they are all searchable—it's easy to find that message you sent months or even years ago.

### TEAMS HAS ITS BENEFITS

Given the success of Slack and its more than 5 million active weekly users, it just makes sense that Microsoft would want to get into the game, right? And so they did, introducing Microsoft Teams in November 2016. Just like Slack, Teams offers an open chat environment, for which you can create channels for litigation groups, clients or other firm activities. And, as with Slack, Teams will also offer integrations with productivity apps like Dropbox, Hootsuite and Asana. As of this publication, Teams only offers integrations with a few apps but expects to launch integrations with more than 150 partners in early 2017, roughly on par with Slack.

Although in some ways Teams might feel like a Slack copycat, there are a couple of Teams features that have the potential to set it apart from the current champion, features that should appeal specifically to lawyers. One of the bots you can use today with Teams is the WhoBot, which can search your firm's intranet and pull data directly from its Active Directory to tell you more about

the people who work with you. You can ask WhoBot, "Who knows about x?" and it will search the directory of lawyers, files and other information to find someone with the experience you seek. Obviously this feature will work best with bigger firms, but it has interesting potential as a knowledge management tool.

Perhaps Teams's greatest advantage, however, is its obvious integration with Microsoft Office apps. Every app in the Office 365 suite is available to you in Teams, so you can bring documents directly into your chat stream and work on them with your team. You can open Word, Excel, PowerPoint and OneNote files from within Teams, and the documents appear inline as a separate tab in the conversation. The content is all searchable, which is something even Slack can't provide right now.

Another advantage of Teams over Slack is its ability to schedule meetings with Outlook from within Teams or hold a videoconference using Skype. Simply press the video camera icon and select some team members, and you're instantly having a videoconference from within the Teams app.

At the time I write this, Teams is very much a newcomer to the team messaging space, and Slack is the clear leader. It'll be interesting to see how things match up as you read this in the spring of 2017.

### CONCLUDING THOUGHTS

One other tool that is getting less attention is brought to you by your social friends at Facebook, and it's called Workplace. Workplace offers some of the same features as Slack and Teams, including work chat, live video, search and a news feed. Unfortunately, I was unable to try it out; although Workplace offers a free trial, you must first work with their sales team before you can even take a look at the project. For me, that's a nonstarter, when you can try out a basic version of most services for free without any sales pitch from the company.

So what do you think? Are you already using Slack or Teams? How do you like them? Maybe this whole team messaging concept is a little too far out for your firm. Let's continue the conversation online. Send me a tweet @TomMighell or an email at [tmighell+dt@gmail.com](mailto:tmighell+dt@gmail.com). I'll compile all your comments and post them on the Law Technology Today blog ([lawtechnology-today.org](http://lawtechnology-today.org)). **LP**



**Tom Mighell** is a senior consultant with Contoural, Inc., has served as chair of the Law Practice Division (LP), ABA TECHSHOW and LP's Publishing Board. [tmighell@gmail.com](mailto:tmighell@gmail.com)



# Technology Evolves Rather Than Disrupts

**WHEN IT COMES TO THE ADOPTION OF TECHNOLOGY** within solo and small law firms, legal technologists say it's slow going. Many others, though, argue that it's vastly ahead of other professional services. While we may disagree on its pace, technology adoption is happening, but I wouldn't say it's disrupting the industry yet.

The ethical duty for technological competence and protection of client information are sometimes cited as reasons for practice management system purchases. And yet, most legal technology solutions tout efficiency as their main selling point. To truly disrupt small law, technology must be part of a change process that aligns firm goals with individual performance measures.

In the past, human resources were the solution to improving project or company performance. Just add a few more workers, and we can speed up the production. Now, we instead apply technology as the fix, citing automation efficiencies. For example, legal practice management (LPM) systems can save your firm an average of x number of hours per week or machine learning software reduces contract review hours by y percent. Even with those efficiencies, people still fear the power of machines. Case in point: Some lawyers are reluctant to adopt time-saving technology for fear of losing billable work.

Lawyers must alter their perspective, though. These efficiencies are a way to generate more revenue because they enable lawyers to reach more clients and provide more, albeit potentially different, services for clients. Briefly, the demand for legal services is still largely unmet, and we have a large access-to-justice issue with some states reporting that 80 percent of consumers cannot obtain the legal help they need. Additionally, small and medium-size businesses look for affordable legal service providers which in turn drives change in the form of alternative fee arrangements, including flat and subscription-based.

If we examine other professional services industries, it's clear that technology should be part of an overall change management approach but not the starting point. I have seen many firms purchase the latest new technology and then have it become "shelf-ware," the virtual version of a report collecting dust on a shelf. More often than not, the software interface, design or utility is not the culprit, but rather the firm's inability to evolve with the software. It fails to change its approach with the users, either attorneys or clients.

While adopting technology must have a positive impact on the firm's bottom line, simply saving money misses the true potential of technology

adoption. Practice management solutions facilitate data-driven decisions by automating processes and providing business intelligence. Also, leveraging technology can be an important component of change in the delivery of legal services. Therefore, law firms must measure the technology implementation itself. In other words, measuring the drivers of success for the firm should include an evaluation of the impact of the technology on both the management of the practice and the delivery of the services.

Technology, like a legal practice management system, simplifies metric measurement, but the implementation of said metrics must align with both the firm's and individual team members' goals. Measurement is typically linked with compensation and traditional key performance indicators (KPIs). That causes an incongruence between individual timekeeper goals and compensation. Using an example of an associate in a small firm from *Small Law Firm KPIs: How to Measure Your Way to Greater Profits*, let's explore the misalignment that frequently occurs between billable hours and an associate's efforts to earn a bonus. Before we jump into this example, always remember: Regardless of billing method—hours, flat fees or a combination of both—law firms must record hours for proper plan-



ning around budget, pricing and compensation structure.

Our associate Allan was not given an annual target for billable hours; instead, the hours available to bill was set at 1,530 hours. Allan wanted to impress his supervisor, so he billed 1,860 hours to land at a 122 percent utilization rate (using the traditional utilization calculation of hours billed divided by available hours). When Allan sat down with his supervisor, he was surprised to learn that his time had to be written off in some cases, resulting in collections of only 86 percent of those billable hours. That 14 percent was viewed as a real loss by the firm and had a negative impact on Allan's bonus. As a side note, Allan billed every hour that he spent on every matter but did not bill any other type of activity. His focus was on beating the billable target.

There are several issues at play here, but the primary one is misalignment of goals and compensation. It's not as simple as associates and attorneys understanding the economics of the firm and the importance of cash collections. Firm leaders must integrate their client experience, profitability, and performance goals with the business and compensation model. In turn, technology, particularly an LPM and accounting system, allows the firm to track metrics in real time. For example, using the LPM Firm

Central® integrated with QuickBooks would allow for timekeepers to record, bill and check collections by matter. Compensation and bonuses should be tied to the success of the firm, which is not likely to be measured by the most billable hours or a high utilization rate.

Many clients are demanding fixed rates and lower fees. Therefore, associates should be rewarded for the efficient delivery of services, which could translate into delivering more for less by using technology within legal services. Despite Allan's low collections performance, by billing all the hours worked, he is providing good data for budgeting and pricing. If attorneys do not record all their efforts, the data for calculating alternative or flat fees would be incorrect. An important part of change is the ability to understand and adapt processes.

The responsibility to collect fees can vary by practice; it may be the partner, associate or bookkeeper. Again, clarifying responsibilities will align measure-

ment. Regardless of who the firm decides to appoint to collect money owed or accounts receivable, using an LPM to monitor any old accounts will become an important metric that needs to be easily accessible to all timekeepers.

When choosing technology, ensure that anything your firm uses is integrated and that good data will automatically transmit. Any change management requires simplicity in data collection and analysis. Technology that drives down the number of billable hours is not necessarily bad because there is a massive market in need of legal assistance. Firms need to change or adapt to the needs of the market, and technology can help once it's implemented properly. However, remember that all the best technology will not replace rigorous business principles. Finally, implementing a legal practice management system is not just an ethical step but a sound business move for efficiency, proper metrics tracking and profitability.

**Mary Juetten** is founder and CEO of Traklight and has dedicated her more-than-25-year career to helping businesses achieve and protect their success. Mary is an international writer, speaker, and mentor. In 2015 Mary co-founded Evolve Law, an organization for change and technology adoption in the law. Mary was named to the ABA's Legal Resource Technology Center 2016 Women in Legal Tech list and serves on the Group Legal Services Association (GLSA) Board. Her new book, *Small Law Firm KPIs: How to Measure Your Way to Greater Profits*, was published by Thomson Reuters Legal in fall 2016.



# A Golden Age of Legal Tech Start-Ups

**TECHSHOW's Start-Up Alley puts innovation on display.**

**T**om Boyle was a certified public accountant doing bookkeeping for small law firms in North Carolina when he decided lawyers needed better software for trust accounting. Most firms he worked with used either QuickBooks or Microsoft Excel, but neither seemed to him to be well-suited to the task. So Boyle took matters into his own hands, starting a company and creating his own cloud-based trust accounting software, TrustBooks.

This year, TrustBooks was among 20 finalists competing for one of 12 spots in a first-of-its-kind Start-Up Alley at ABA TECHSHOW 2017. The idea, conceived by TECHSHOW chair Adriana Linares, is to set aside a portion of the exhibition hall to showcase innovative legal start-ups. The 12 start-ups will also face off on TECHSHOW's opening night in a bracketed pitch competition (similar to the NCAA March Madness basketball tournament) to pick the most innovative of the lot.









“I think it’s important for lawyers to see and appreciate the incredible amount of creativity and development being introduced into the profession,” Linares said. “I want them to recognize that technology and progress can truly help them run their businesses and practices better.”

As her comment suggests, these companies are representative of a broader trend of unprecedented innovation in legal technology. The last two years, in particular, have seen significant growth in the number of legal technology start-ups. Accurate numbers are hard to come by, but my own estimates indicate between two to threefold growth from 2014 to 2016, with the number today somewhere in the range of 600 to 1,400 companies.

Not only is the number of companies proliferating but so are their variety and originality. Even in a well-established area such as legal research, long dominated by technology giants, newcomers are introducing creative and practical innovations. As just two examples, consider Casetext’s CARA, an application that finds cases a brief should have included but didn’t, or Ravel Law, with its unique visual mapping of legal research results.

Why is there this groundswell of innovation at this moment in time? The reason, I believe, is that the formula for innovation has changed. Until recently a few corporate behemoths largely drove legal technology. Advances in legal research, trial technology, document management and practice management were at the behest of the big guys. That is not to say that there were not smaller entrepreneurs and start-ups. There were. But hundreds at any given time? Never before.

Today we live in a time when everyone knows the story of a Harvard undergrad named Mark Zuckerberg, who started something in his dorm room and rose seemingly overnight to become one of the world’s wealthiest people. It seems that virtually anyone with the right idea has a shot at making it a reality. For Ravel’s founders it did not matter that they were still in law school when they thought they had a better way to do research. They had a good idea and ran with it.

We have transformed from a time when legal technology was a product driven by large corporations to a time when it is an idea driven by a desire to make things simpler and smarter. Yes, many of these entrepreneurs are motivated in part by the hope of financial success. But that hope is helping to drive a new generation of creative thinking, a new generation of entrepreneurial lawyers and developers who believe they can improve the way law is practiced and delivered.

Add to that two very practical considerations that are playing a central role in driving innovation in legal technology. First, the legal industry is a significant market ripe for innovation and disruption and, therefore, alluring to many entrepreneurs. Second, the price of innovation is cheap—in that virtually anyone with a good idea and a laptop can bring a product to market.

## 20 LEGAL TECH START-UPS

The best way to illustrate the current state of legal start-ups is to tell you about some of them. Below are descriptions of the 20 companies chosen to compete for the 12 Start-up Alley slots at ABA TECHSHOW 2017. A panel of judges—of which I was one—selected the 20 finalists from all the applications received. From among those, online voting selected the final 12.

Listed first below are the final 12 selected to participate in the Start-up Alley. They are listed in order of votes received. Following those are the other eight, listed in alphabetical order.



IMAGE ON PREVIOUS PAGE: LVCANDY/GETTY IMAGES

IMAGE BY NOERIZKI/THINKSTOCK





Note that the following descriptions are drawn from the companies' own applications submitted for the Start-up Alley competition, in which they were asked to give their elevator pitch and describe what makes them unique in the market.

## THE 12 WINNING START-UPS

### 1. CLARILEGAL

**Elevator pitch:** ClariLegal enhances client relationships for legal teams and their vendors, bringing control to the procurement and management of litigation support services. These projects can often be complex and unpredictable, potentially damaging client relationships and a firm's reputation. With ClariLegal, legal teams effortlessly bid litigation support work to a vetted network of vendors, receive normalized proposals, quickly select with confidence and easily manage progress against budget.

**How we're unique:** Our team is a mix of e-discovery executives, experienced entrepreneurs, program managers and legal professionals who have lived the problem we are solving and know how to build a business. Through our firsthand vendor management experience, we are devoted to bringing control to a market where unpredictability is currently the norm. We are the first and only firm so far to recognize, develop and strategize how best to launch the "Angie's List of legal services" platform.

### 2. PING

**Elevator pitch:** This is automated timekeeping for lawyers. Ping will automatically track, categorize and describe all of a lawyer's billable actions. Work your day as you normally would and let Ping do the rest.

**How we're unique:** We are the only automated timekeeping company that's solely focused on the law. The company was recently accepted into SkyDeck, the start-up accelerator program at the University of California, Berkeley, and has a patent pending for its technology.

### 3. COURT BUDDY

**Elevator pitch:** Court Buddy is a wholly automated platform that matches solo and small-firm attorneys with small businesses based on preselected à-la-carte flat rates. Attorneys can create fee agreements, get their legal fees paid instantly through its integrated payment portal and chat with clients instantly through its integrated app. Court Buddy

has been named "The Priceline of Legal" by the Huffington Post.

**How we're unique:** What makes Court Buddy different is its patent-pending, wholly automated legal-matching platform, which allows solo attorneys to easily advertise their legal services and flat-rate legal fees, create legal tasks for clients and get paid instantly from clients through its built-in secured payment portal. It also allows attorneys to instantly message, videochat or call clients through the Court Buddy chat app.

### 4. LAWTAP

**Elevator pitch:** LawTap is the booking engine for attorneys. With LawTap, attorneys can start accepting online client bookings via LawTap.com, their websites or email signature in less than 10 minutes.

**How we're unique:** Like Zocdoc for doctors and dentists, LawTap is the booking engine for attorneys. Within three months after starting in Australia in June 2016, the company had 200 lawyers using it. It was scheduled to launch in the United States in early 2017. Its founder previously developed litigation data mapping software, EasyDataMaps, that he later sold to Iron Mountain.

### 5. DOXLY

**Elevator pitch:** Doxly is a cloud-based platform that transforms the chaotic process of managing legal transactions into a singular tool. Transaction management is a high-stakes, labor-intensive and largely opaque process filled with multiple points of potential risk and little margin for error. Companies and their legal teams are still managing diligence checklists and closing worksheets in email, document checklists and file folders. We are an end-to-end solution to manage the entire process.

**How we're unique:** Built by attorneys for attorneys, Doxly engages all parties to a transaction—attorneys and clients—on a single platform and is uniquely positioned to allow parties to complete diligence and closing obligations in one place with organization and collaboration tools. We are building out reporting and analytics tools that allow attorneys and law firm marketing and business professionals to get deal trend analytics with a few clicks.

### 6. PALADIN

**Elevator pitch:** Paladin helps law firms, companies and law schools manage their pro bono with streamlined sourcing, tracking and outcome reporting on



a modern, tech-forward platform. Paladin connects attorneys with pro bono cases and then captures information about those cases, such as hours worked and case outcomes.

**How we're unique:** Existing processes used by law firms and nonprofits to track pro bono are manual.

## 7. UNICOURT

**Elevator pitch:** UniCourt is a nationwide case research, tracking, management and analytics platform that integrates court data from federal and state courts into a cloud-based application. Our solution allows organizations to reduce costs, increase productivity, make data-driven decisions and identify marketing opportunities. By leveraging big data methodologies to acquire, analyze and correlate disparate legal data, UniCourt makes legal data more widely accessible, manageable and insightful.

**How we're unique:** Our application allows users to crowdsource and interact with legal data from federal and state courts from one application for case research, tracking, management or analytics. We cover more than 40 jurisdictions across both federal and state courts, with information on more than 30 million cases and 350 million docket entries.

## 8. LEGALCLICK

**Elevator pitch:** LegalClick is a software-as-a-service platform for lawyers to sell their legal services directly to clients using our document assembly shopping cart in our app or online.

**How we're unique:** LegalClick allows small local law firms to sell their legal services directly to consumers online by uploading their own fixed-fee service contracts or retainer agreements into our platform for consumers to find a lawyer near them that offers the services they desire.

## 9. TRUSTBOOKS

**Elevator pitch:** We take a scary thing like accounting and make it drop-dead simple. We specialize in helping attorneys maintain their trust account in compliance with their local state bar. With our product they get to spend their time practicing law and not worrying about trust accounting.

**How we're unique:** We are the only product on the market that focuses on the trust accounting niche. We don't offer general accounting software. Our

product was built from the ground up on making trust accounting simple. That's all we do, and we do it better than anyone.

## 10. LAWBOOTH

**Elevator pitch:** We connect people and attorneys online. We make it easy for consumers to find the right attorney and schedule a free initial consultation. By fusing software as a service, intelligent matchmaking, a proven search engine optimization strategy and a marketplace, Lawbooth provides the optimal experience to people searching for attorneys online.

**How we're unique:** The best search, scheduling and videoconferencing all in one place. Above all, we're focusing on information, transparency and competition to create the first free market for legal advice. We are starting by focusing on the initial online connection but plan to bring the entire legal process into the cloud.

## 11. ALT LEGAL

**Elevator pitch:** Alt Legal's software helps companies and law firms create, track and analyze intellectual property filings. Our software reviews millions of intellectual property filings from government databases and automatically updates filings, identifies key deadlines and creates new filings without manual effort. Our customers pay us monthly subscription fees and handle thousands of filings daily with our software.

**How we're unique:** Unlike competitors, our tech focuses on analyzing intellectual property office data to automate administrative work and provide valuable insights. Our tech can detect very granular changes in filings and correct for anomalies in the data.

## 12. AGGREGATE LAW

**Elevator pitch:** Aggregate Law quickly and efficiently connects skilled project attorneys to legal work. It's an automated matching service where solos and small firms looking to grow can find the help they need. We are not traditional staffers; we eliminate the hiring process and put a vetted and experienced attorney to work for clients right away. For the project attorney this means access to great work on your own schedule. For the solo or small firm, it offers the ability to scale up and down as needs arise.

**How we're unique:** Aggregate Law's job is to connect smart lawyers and entrepreneurial firms looking to grow their practices with independent attorneys



working in a way that suits their skills and lifestyle. We're not a traditional staffing agency. The attorneys in our network do not work for Aggregate Law; they are independent contractors. Our task is complete after the match is complete—often in less than an hour. All the work, communication and payment takes place outside of our system.

## THE EIGHT REMAINING FINALISTS

These eight companies were among the 20 finalists selected to participate in the Start-up Alley competition. Although they were not among the final 12, they are all worthy of note.

### ATTICUS

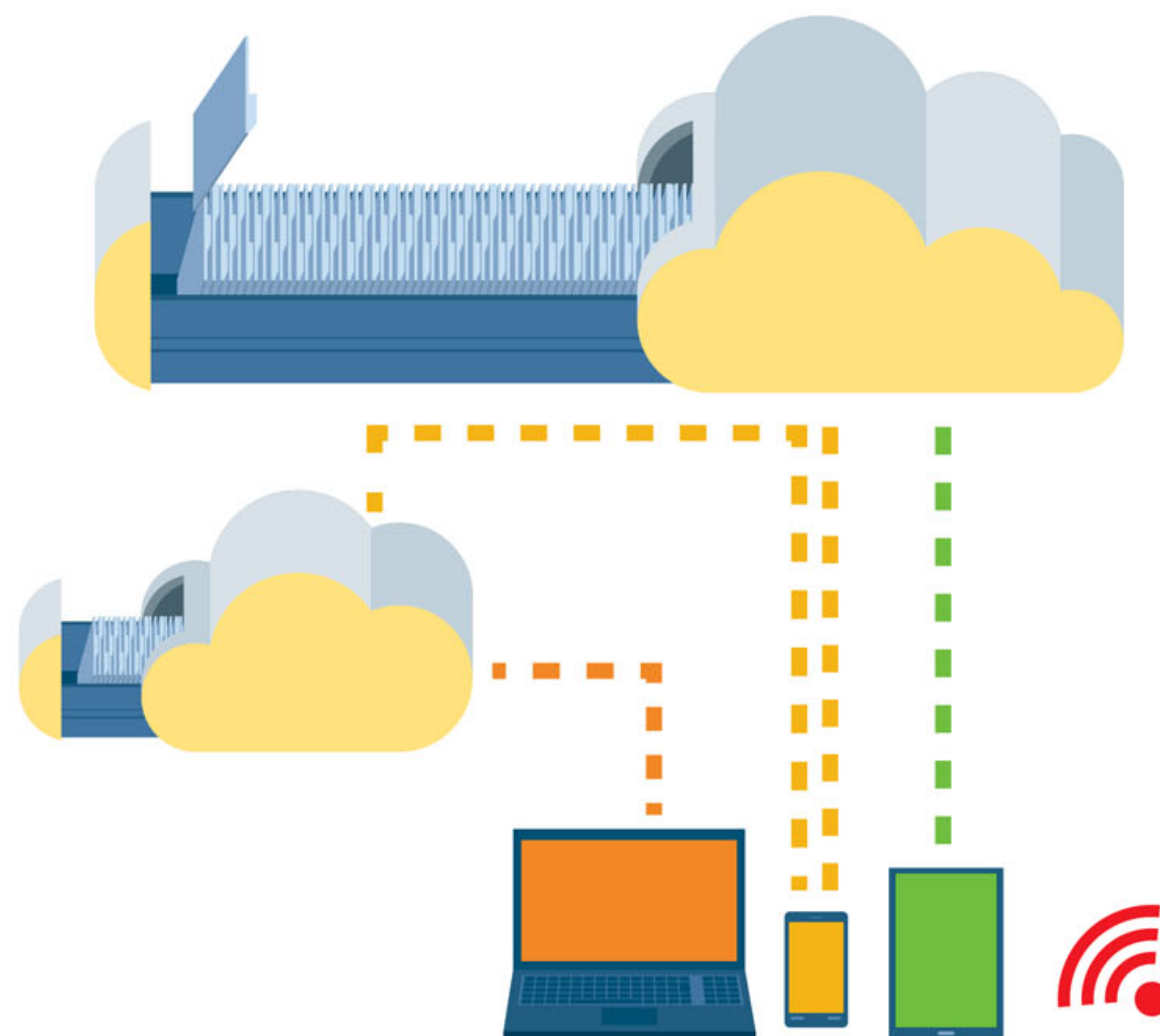
**Elevator pitch:** Atticus is a mobile app that connects ticketed drivers with defense attorneys for a flat fee of \$249. Clients can summon a lawyer to show up with them, on their behalf or while they are already in court.

**How we're unique:** We saw a pain point for clients who may not understand traffic laws and do not realize their rights and the collateral consequences that accompany a traffic ticket. At the same time we heard from attorneys that the least enjoyable part of their job is the marketing. They are not trained marketers and would like to focus on the legal work. With Atticus we are able to deliver traffic cases right to the attorney's phone. It allows them the flexibility to take cases at their leisure.

### COGNATE

**Elevator pitch:** Cognate is the first step in trademark protection. Common-law trademark rights in the U.S. are earned simply through use in commerce. These rights can supersede federally registered trademarks in certain situations. Cognate is a common-law trademark registry and certification system that leverages blockchain technology to allow users to publicly document proof of their rights and a watch service that utilizes a proprietary machine-learning algorithm to detect potential trademark conflicts.

**How we're unique:** Cognate's common-law trademark registry and its proprietary "CM" certification mark are a first of their kind. We give lawyers and trademark professionals the ability to proactively protect their trademark rights without going through the U.S. Patent and Trademark Office. Cognate enables users to (1) make an explicit, public claim to rights and (2) get alerts if someone may be



infringing on these rights. This can lead to a dramatic increase in transparency regarding trademark usage and, as a result, a dramatic decrease to the money lost by companies due to trademark conflicts.

### EBREVIA

**Elevator pitch:** eBrevia uses industry-leading artificial intelligence based on technology developed in partnership with Columbia University to analyze contracts, bringing unprecedented accuracy and speed to contract review, due diligence and lease abstraction. The company's clients include global and corporate boutique law firms, Fortune 500 companies and auditing firms. Clients are even able to train the system completely on their own to extract custom terms to meet their specific needs.

**How we're unique:** eBrevia's contract analytics software accelerates contract review by automatically extracting and summarizing content from contracts. The software saves users 30 to 90 percent of review time while improving accuracy by 10 percent. The software is able to recognize concepts in contracts regardless of the vocabulary used to express them. Recently eBrevia received an investment from Donnelley Financial Solutions, a \$1 billion public company that is a trusted name in the legal industry.

### INTRASPEXION

**Elevator pitch:** IntraspeXion enables companies to preserve assets and protect leadership. We surface the



risks of “liability” to enable in-house counsel to avoid lawsuits. The system finds risks before the damage is done. If a client avoids three average civil litigation matters, it preserves over \$1 million. When a regulatory investigation becomes a criminal matter, the government must prove a specific intent to do harm. Our system, used in good faith, is evidence of the opposite, a specific intent to avoid harm.

**How we’re unique:** Intrapexion’s mission (less litigation), technology (deep learning) and product (an early warning system) are inventive and new for the profession.

### LEGALINC CORPORATE SERVICES

**Elevator pitch:** Legalinc is a Dallas-based business-to-business software-as-a-service company with a straightforward mission: to simplify the process of business formations and registered agent service while automating state regulatory compliance needs. Legalinc is the only true offering in this space, powering corporations, lawyers and tax professionals with a simple-to-use platform.

**How we’re unique:** Legalinc brings technology to a space where only ink and paper have dominated for centuries. We have the only interface that enables filing services to be automated to all 50 state jurisdictions. No more emails and spreadsheets. We empower both the platform and the professional with this modern take on classic incorporation, registered agent filing and compliance.

### NEXCHAPTER

**Elevator pitch:** In brief, this is TurboTax for bankruptcy attorneys. NextChapter is a web application for attorneys to prepare, manage and file their bankruptcy cases online. Our unique web workflow guides attorneys through the bankruptcy process, making it easier and faster to prepare cases.

**How we’re unique:** We are the first cloud-based bankruptcy software that can be used on any browser, any device, any time. Our unique web workflow guides attorneys through the bankruptcy process, making it easier and faster to prepare cases. We believe NextChapter is solving a very real problem and making the bankruptcy process easier. Our hope is to move our model into other areas of law later in 2017.

### SAPLING

**Elevator pitch:** We ingest open government and

client data and provide analytics tools that allow attorneys to interrogate data in an open and collaborative way. The tools and approach help the attorney develop deep knowledge of the client (through understanding its information) and develop strong facts in support of its case, compliance program, etc.

**How we’re unique:** Attorneys often outsource client data analysis to external consultants whose work is performed in a “black box” manner. Sapling provides tools and services designed to put the attorney back in the driver’s seat—giving him or her direct visibility into the information, working in a collaborative way and producing beautiful, interactive data visualizations to support the case.

### VALCU INC.

**Elevator pitch:** A corporate maintenance platform with a self-serve document automation engine that allows the complexity lawyers work into documents. Documents are hashed, can be e-signed and pushed to the blockchain. A capitalization table management tool (in beta) includes an events-based data structure allowing transfers, vesting, repricings, splits, etc., to flow through the model, JavaScript-based architecture, allowing analysis within the browser and built-in modeling.

**How we’re unique:** We have a deep focus on technology, scalability and data structure to address hard problems.

### PARTING THOUGHTS

These companies provide a small sample of the hundreds, maybe thousands, of legal technology start-ups currently in business. Only a small percentage of these start-ups are likely to stand the test of time. But the number of start-ups attests to the variety and creativity of new products being brought to the legal market. Quantity, alone, isn’t necessarily a good thing, but it can’t be denied that the more milk you have, the more cream that will rise out of it. The beneficiaries of that will be lawyers and their clients. **LP**



**Robert J. Ambrogi** is a lawyer in Massachusetts. He publishes the award-winning *LawSites* blog and co-hosts the longest-running legal podcast, *Lawyer2Lawyer*. [ambrogi@legalline.com](mailto:ambrogi@legalline.com)



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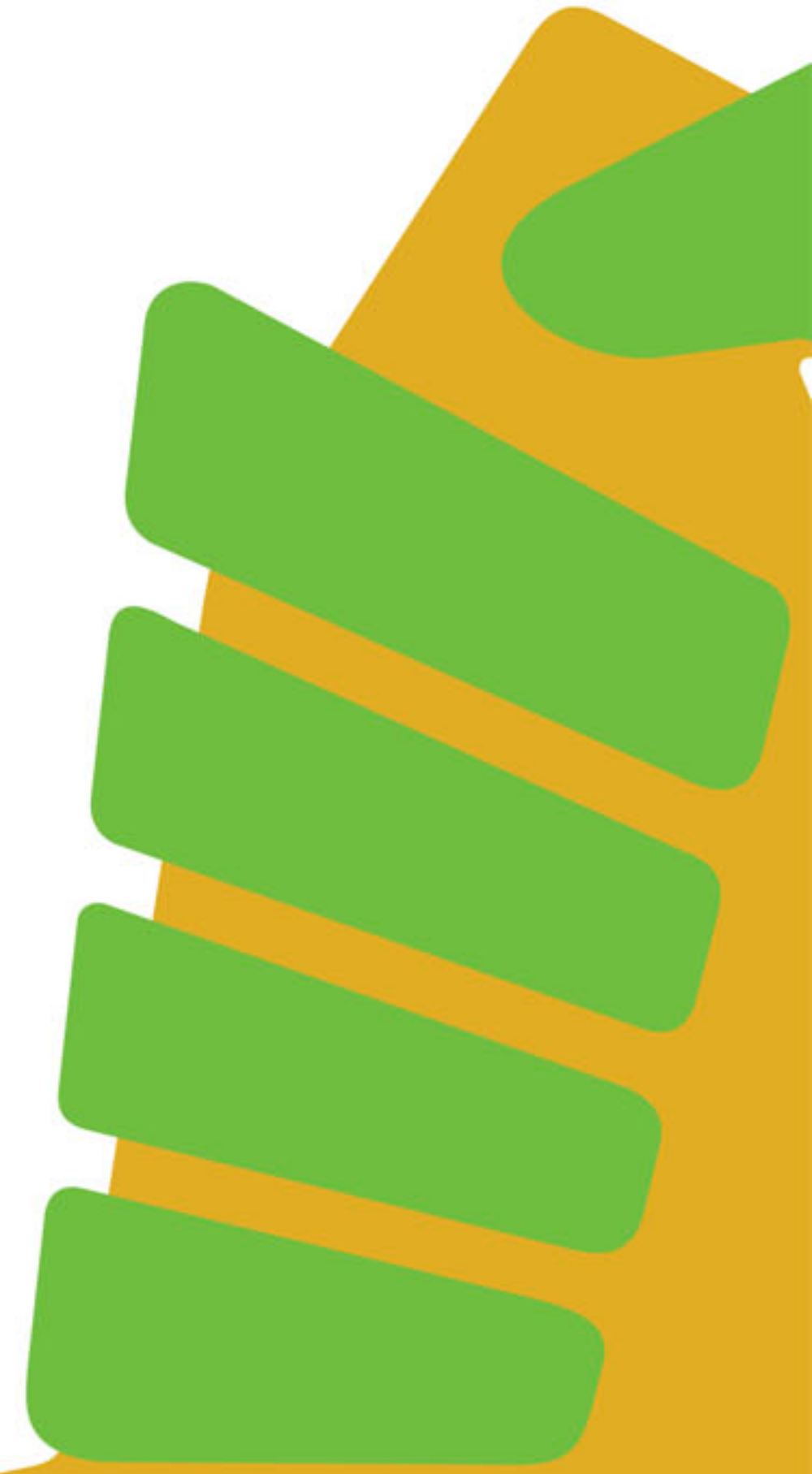
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# LEGAL INCUBATOR PROGRAMS: AN EMERGING MOVEMENT

Incubator programs train  
young lawyers and facilitate  
access to justice for people  
with lower incomes.







## In response to a crisis in access to civil justice

in and around New York City, the City University of New York School of Law (CUNY Law) launched the first program in the nation to train recent law school graduates. Begun in 2007, CUNY's Incubator for Justice was designed to assist CUNY Law graduates to develop the skills needed to set up and sustain economically viable small legal practices. Special emphasis was placed on developing solo and small-firm practices equipped to address the ever-growing unmet legal needs of moderate- to low-income New Yorkers living in legally underserved neighborhoods. The incubator was modeled on similar programs around the nation for small business owners. Business incubators in general aim to assist start-up business owners by providing the training participants need to enhance their professional and business skills.

The goal of the CUNY incubator was to offer its participants the same sort of training that new associates receive when they join law firms, corporations and governmental or legal services organizations. Once hired, associates receive immediate access to professional training and support, and they have mentors to help with almost every aspect of their professional development. CUNY Law wanted to ensure that its graduates venturing into solo or small-firm practice had the same sort of access to quality training and mentorship as new associates.

Since the Incubator for Justice was crafted as a stand-alone project for a maximum of 10 lawyers, at no point in its development or implementation did anyone imagine that the new

By Fred Rooney and Stephanie Everett



initiative would take on a life of its own and turn into a movement in the United States—and eventually abroad. The expansion of incubator programs was due, in large part, to the economic chaos that began in 2008. As law schools, and eventually bar associations, were faced with a severe lack of job opportunities for law graduates and newly admitted lawyers, the idea of creating incubator programs became increasingly more attractive. Additionally, the economic downturn left greater numbers of people in the U.S., already ineligible for publicly funded legal services, without the resources to retain private counsel. In many ways a perfect storm led legal institutions to consider incubator development to fill a sorely needed gap in opportunities for new lawyers and access to competent and affordable representation for people of modest means.

## WHAT LEGAL INCUBATORS ARE DOING

According to the 2016 Comprehensive Survey of Lawyer Incubators, published by the ABA Standing Committee on the Delivery of Legal Services, and the Lawyer Incubator Directory, more than 60 incubator programs exist today. Here are some other observations stated in the survey results:

- Although the first incubator emerged in 2007, three-fourths of them that responded to the survey have been created since 2014. Some of them have very recently “graduated” their first class of incubator participants, and a few have not even reached that point.
- The nature, structure and design of incubators vary greatly from one program to another. The survey demonstrates that the development of incubators has been organic. There is no template for their design and operations. While many are sponsored by law schools, several are collaborative efforts, and some are sponsored by other entities such as bar associations and foundations, legal aid programs, law firms and nonprofit organizations. The services offered by

incubators, the funding sources and the range of legal services provided by the participating lawyers to their clients all vary considerably from one program to another. The ABA and the Consortium for Access to Justice have provided resources to help incubators share information but, nevertheless, programs tend to reflect the needs of both their communities and their participating lawyers in unique and varied ways.

- Incubators are aggressively advancing social responsibility through pro bono services and orientations to low- and moderate-income populations. The common denominator running through most incubators is their dual mission to prepare recently admitted lawyers to develop and launch new practices while at the same time providing services to underserved populations. Pro bono is a fixture in seven out of every 10 programs.
- Incubators are providing their participating lawyers with an array of educational and practice management tools. In-kind support from legal service vendors enable incubator participants to test-drive a wide variety of resources designed to support their practices, create efficiencies and enable the delivery of services at lower costs.
- Innovation is stressed in many programs but has room to grow in others. Several of the programs are introducing concepts such as unbundled legal services, niche markets and alternative billing structures, but some focus on

Participating lawyers are undoubtedly making a significant impact in their communities, providing representation, referrals and other services to those who need it most.

more traditional practice methods. This points to an opportunity for the larger community of incubator programs to draw from the resources of one another and suggests that some level of peer-to-peer technical assistance can expand an environment of experimentation.

## GEORGIA'S INNOVATIVE APPROACH

One of the newest law practice incubators in the country, Georgia's Lawyers for Equal Justice (L4EJ), is modeling a new collaborative approach to the process. Instead of creating a program as an extension of a single law school, the five law schools located in Georgia came together, along with the State Bar of Georgia, and created and funded a unified program. The law schools include two state-sponsored schools, the University of Georgia and Georgia State University, and three private schools, Emory University, Atlanta's John Marshall Law School and Mercer University. Equally as important, the program has the support of all the major legal aid organizations that serve Georgians. Its board of directors includes representatives from each law school, the State Bar of Georgia, the Georgia Supreme Court, Georgia Legal Services Program, Atlanta Legal Aid Society and the Atlanta Volunteer Lawyers Foundation.

L4EJ's Board of Directors chairman, Bucky Askew, noted, “It was important to all the deans of the law schools that they worked together, along with the state bar leadership, to create the program. But it is the participants who are the real beneficiaries of the collaborative process—they now receive the full support of all the Georgia law schools and their state bar.” The law schools provide more than financial support: Professors from the schools visit the program to teach seminars or offer insights to the participants, and other schools have offered research materials and similar resources. “Having everyone working to ensure the participants succeed makes the program stronger,” Askew said.

L4EJ was the first law practice incubator



to receive an exemption under section 501(c)(3) of the Internal Revenue Code. It was created with a mission to address two key areas: First, the program picks up where law school leaves off in preparing newer lawyers who want to start their own practices, and, second, the incubator provides a laboratory where attorneys can experiment with new legal delivery models and offer lower prices to help close the justice gap in Georgia.

The practice of law has not significantly changed in the last 100 years. At L4EJ, participants are challenged to think about practicing law in a new way that embraces technology and encourages efficiency. In this regard the participants are encouraged to explore how they can utilize technology in their practices to automate certain parts of the practice and reduce costs. In addition the participants learn about limited scope representation and alternative fee schedules.

As a result, attorneys participating with L4EJ often offer pricing below typical market rates. Georgia's legal aid organizations refer potential clients who do not qualify for their services to L4EJ's attorneys. One client, upon hearing the price for representation, called back to confirm it was not a scam. She was so thankful to finally have an attorney she could afford by her side.

L4EJ launched last April, with the first group of participants in its 18-month program and plans to accept up to 10 new participants each six months. Eventually, it plans to serve 30 lawyers at all times. All five law schools have graduates represented in the first class. Inaugural participant JoAnna Smith explained: "One of the best benefits of participating in the incubator has been the collaboration among participants. It is one time when school allegiance takes a back seat as everyone in the program works together and is willing to help one another to ensure our practices succeed."

Similar to other incubators, L4EJ offers participants office space; office equipment; a license to use CosmoLex's practice management, billing and accounting software; a license for Lexis-Nexis; scholarships to

CLE programs; mentoring; and training on substantive legal topics, legal skills training and professional development topics, including how to launch and grow a law practice. In exchange the participants pay a reasonable participation fee and agree to provide at least 30 to 40 hours of pro bono services each month through Georgia's legal aid organizations.

### CLOSING INSIGHTS

The 2016 Comprehensive Survey of Lawyer Incubators provides a wide-ranging outline of the current state of the incubator movement and the reasons for its ongoing expansion. The survey's conclusion identifies a number of trends, noted below.

Existing incubator programs vary in many respects. While no two programs are identical, they all share a commitment to training new lawyers to become successful solo and small-firm practitioners. More often than not they share a dedication to access to justice for those of low and moderate incomes. This social justice component is evident all the way from the applicants they choose to the training they provide, the pro bono and moderate-income services they require, the areas in which they practice and the clients they target.

Furthermore, incubators are in a unique position to instill in new lawyers access-to-justice ideals and to provide them tools for innovation. And while several programs are in fact preparing their graduates to offer nontraditional compensation arrangements and delivery models, there is still room to grow in this area. Nevertheless, participating lawyers are undoubtedly making a significant impact in their communities, providing representation, referrals and other services to those who need it most. The value of preparing and enabling cohorts of new lawyers to continue their careers in service to underserved populations cannot be overstated. This impact on the access gap only stands to increase as programs reach their full potential and progress and as more programs continue

to develop, especially if at a rate like that of recent years.

Sustainability is the greatest challenge incubators face. There were also several concerns surrounding the tremendous need in their communities for affordable legal services and the inability of programs to adequately respond to that need due to lack of resources. Hopefully, this article will bring awareness to the incubator model as a viable and worthy investment. Ultimately, the hope is that more and more new lawyers will walk away with the tools and experience to do well by doing good.

Incubator creators, administrators and participants from across the United States and abroad give special thanks to members of the Standing Committee on the Delivery of Legal Services for their ongoing support of incubator development and for their painstaking efforts to document the successes and ongoing challenges that face the ever-growing incubator movement. **LP**



**Fred Rooney** has been credited with creating the first legal incubator model for training new lawyers and for being a catalyst in the transformation of legal

education in the U.S. He was designated "Father of Incubators" by the ABA Journal, served as a Fulbright Scholar in the Dominican Republic, is an adjunct faculty member at Texas A&M School of Law and serves as a Fulbright Specialist in Pakistan. **[fred.rooney@fulbrightmail.org](mailto:fred.rooney@fulbrightmail.org)**



**Stephanie Everett** is the executive director of Lawyers for Equal Justice, Inc., where she helps new solo attorneys start socially conscious law firms.

She also consults with experienced attorneys on running their law businesses more effectively. **[stephanie@L4EJ.org](mailto:stephanie@L4EJ.org)**



The ABA Center  
for Innovation

# Drives Originality





# and Access

The profession should take advantage of this resource for improving legal services delivery.

By Janet Jackson and Andrew Perlman

Imagine if innovation in the delivery of legal services were commonplace and existing methods were subject to continuous examination and improvement. This is not our current reality, but it should be. We have an obligation to re-examine legal services from a consumer's perspective and, whenever possible, deliver what the public needs in a better, faster and cheaper way.

To advance this goal we need a place that enables lawyers in all practice settings to adapt more quickly to marketplace realities and client needs, a place that helps courts devise ways to resolve disputes more efficiently and a place that enables people to gain easier and more effective access to the legal information and services they need. Such a place would encourage and facilitate collaborations among different kinds of professionals to ensure that we are doing all we can to give our clients and the public essential services and information. The ABA Center for Innovation was established to be that place.

## THE NEED FOR ABA-LED INNOVATION

The Center for Innovation is an outgrowth of the work of the ABA Commission on the Future of Legal Services, which recently released its final report. That report highlighted many of the problems with the traditional legal services delivery



model. Among the Commission's many observations was that the ABA needs to help lawyers deliver their services more efficiently. For example, many lawyers would benefit from learning about legal project management and process improvement, the value of document automation and the increasing array of effective law practice management tools.

At the same time the Commission observed that people need more effective tools when they decide to represent themselves. For instance, the public would benefit from technology that helps people diagnose their legal problems and identify appropriate resources, and courts would benefit from more efficient approaches to resolving legal disputes.

The need for innovative thinking is not unique to law. The consulting, health care and personal finance industries all invest in research and development labs to better serve their clients. Dentons' Nextlaw Labs, Davis Wright Tremaine's De Novo and Seyfarth Shaw's SeyfarthLean, as well as an increasing number of companies, are developing new approaches. The Commission concluded that an industry-wide effort led by the profession was both desirable and possible.

During the summer of 2016, the ABA Board of Governors embraced this idea. It voted to approve the Center for Innovation, both conceptually and financially, and dedicated significant funding for the initiative. The Center officially launched on September 1, 2016.

## THE CENTER'S MISSION

A critical premise of the Center is that nothing should be left off the table in terms of the problems to be addressed or the solutions to be considered. Relying on data and empirical evidence, the Center will follow the path that

most effectively improves how legal services, both civil and criminal, are delivered and accessed. This effort will require a diverse range of approaches, such as:

- Promoting interdisciplinary collaborations with experts from outside the legal industry and those innovating within it.
- Developing new resources for lawyers to help them work better, faster and cheaper.
- Collaborating with courts to find more efficient ways to resolve disputes without sacrificing fairness.
- Helping to identify and support innovations in legal education.
- Partnering with ABA entities, state and local bar associations, courts, law firms, legal departments, technologists, design specialists and innovative companies to develop impactful projects and initiatives.
- Supporting the existing innovation efforts of other ABA and bar association entities.
- Measuring the effects of resulting innovations using sound analytics and reliable evidence so assessments can be made as to which efforts should be expanded and replicated.

To ensure that the Center achieves these ambitious goals, ABA President Linda

Klein has appointed a blue-ribbon group of professionals to serve on the Center's Governing and Advisory Councils. Council members are leaders in technology, innovation, design thinking, academia and the delivery of legal services. They come from within and outside the legal profession, and most are innovators or national experts in their respective

**Relying on data and empirical evidence, the Center will follow the path that most effectively improves how legal services, both civil and criminal, are delivered and accessed.**



IMAGE ON PREVIOUS PAGE BY ISMAGILOV/THINKSTOCK

IMAGE BY AZURE-DRAGON/THINKSTOCK



fields. Additionally, the Center is partnering and collaborating with corporations, foundations, universities, social service agencies, ABA entities, bar associations and others to advance the work.

## EARLY PROGRAMS AND PROJECTS

Several projects are already underway or in development. One such initiative is a Fellows Program that will provide opportunities for both recent graduates and mid-career lawyers to come to the Center to advance promising legal services innovations. The Center also will work with various organizations, such as courts, legal departments, bar associations and others, to arrange for them to send fellows to the Center. The fellows will be matched with available resources to help them appropriately plan and develop their projects. We expect to welcome the first group of fellows in the spring of 2017.

The Fellows Program will benefit from the Center's proximity to world-class educational institutions, an entrepreneurial local economy and a thriving legal community. Fellows also will have access to resources beyond the Chicago area through the Center's extensive network of collaborators, both in the U.S. and abroad. In return, Center fellows will lend fresh eyes and energy as they seek out new approaches to long-standing problems. We expect that the fellows will create a place that is humming with new ideas and offers opportunities to turn those ideas into practical solutions.

In the meantime the Center is working on various other exciting and promising initiatives. For example, the Center is assisting the New York State Unified Court System with a court-annexed online dispute resolution pilot project that will seek to resolve consumer debt cases more efficiently and effectively. The ABA's

Judicial Division is the lead ABA entity and the Center has a supporting role. The project will include the development of appropriate metrics to assess the effectiveness of the pilot and determine whether it should be replicated and expanded.

Another developing project is a free online legal checkup tool by the ABA Standing Committee on the Delivery of Legal Services. The checkup will consist of an expert system of branching questions and answers that helps members of the public to identify legal issues in specific subject areas and refers them to appropriate resources. The Center will be lending its support for this effort as well.

The Center is also looking for opportunities to work on "pop-up" projects that can address urgent, time-sensitive legal needs. For example, we learned that thousands of flood victims in and around Baton Rouge, Louisiana, must establish their eligibility for FEMA homeowner assistance, but many are unable to do so because they lack the documentation of home ownership that is commonly maintained in other parts of the country. Through the efforts of Center leadership, Flood Proof, a mobile app, has been created to help flood victims gather the documents that are necessary to establish home ownership and complete FEMA submissions. The Center hopes to undertake similar efforts in the future.

The Center is also planning to establish a comprehensive Innovations Clearinghouse that will catalog ongoing legal services innovations around the world so that it can better understand existing efforts, avoid duplicating current projects and inform its decisions regarding new initiatives.

Another important part of the Center's work will be educational and training programs for lawyers as they navigate the rapidly changing intersection of law and technology. For example, what does the solo office of 2020 look like? How do we

help new lawyers leverage emerging technologies to build a successful career and practice? Many lawyers are hungry for the tools and insights necessary to deliver legal services in new ways, and the Center can play a key role in helping lawyers achieve that goal.

In addition, the Center is developing cutting-edge educational programming in collaboration with leading thinkers and institutions. It plans to make this content available through in-person programs and online courses and seminars. The goal of these offerings will be to help spread knowledge and insights that will expand an innovation mindset throughout the legal industry.

We are excited about the Center's work and its potential to bring about needed change, but it cannot succeed without the support of all stakeholders, including those within and outside the legal profession. Together, we believe that we can improve how legal services are delivered and accessed in the 21st century and provide the public with the services that they demand and expect. **LP**



**Janet Jackson** is the managing director of the ABA Center for Innovation. For more information about the ABA Center for Innovation, please

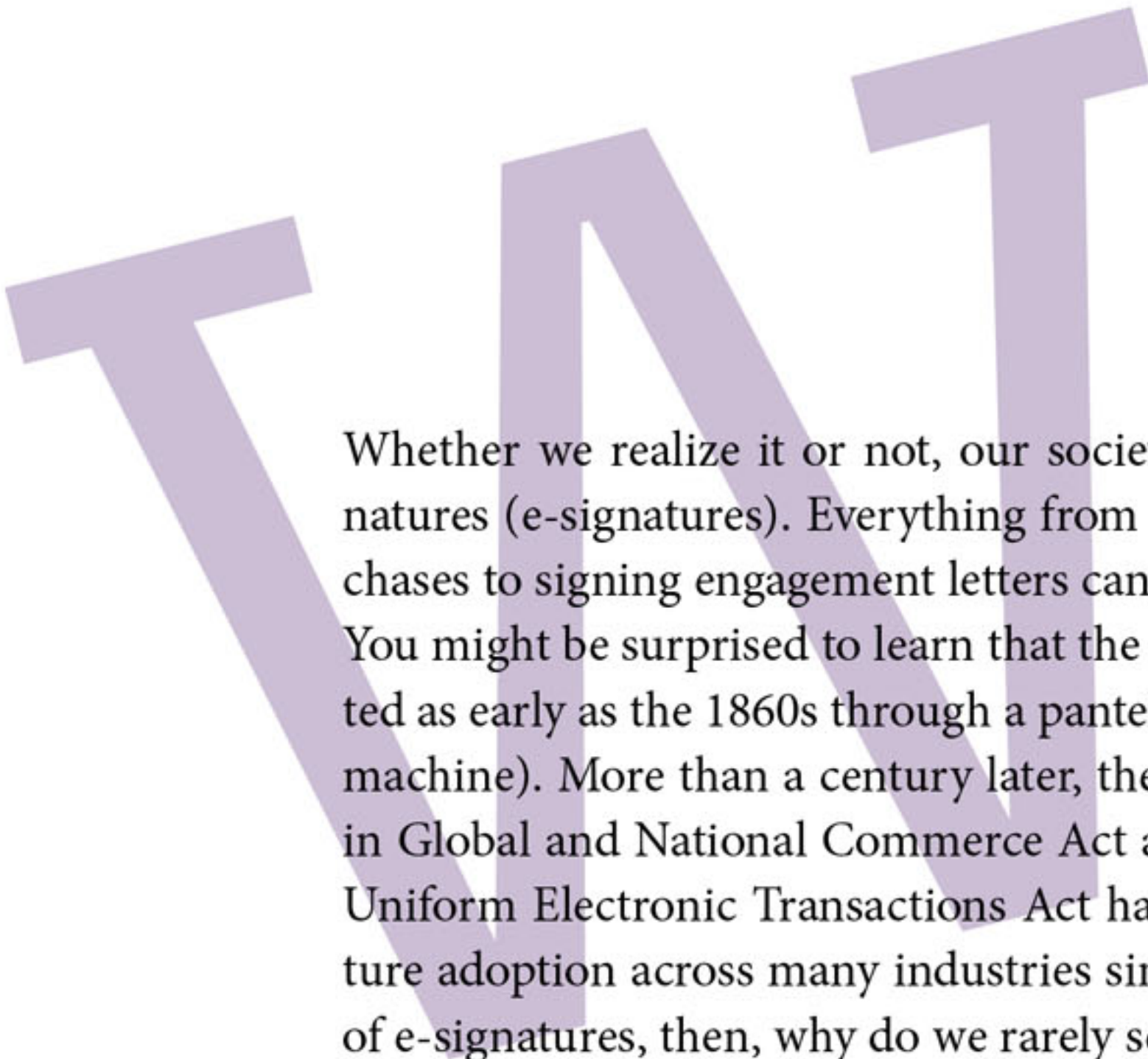
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**Andrew Perlman** is the chair of the governing council for the ABA Center for Innovation as well as dean and professor of Law at Suffolk University Law School.

[aperlman@suffolk.edu](mailto:aperlman@suffolk.edu)





Whether we realize it or not, our society is driven by electronic signatures (e-signatures). Everything from signing for grocery store purchases to signing engagement letters can be handled with e-signatures. You might be surprised to learn that the first e-signature was transmitted as early as the 1860s through a pantelegraph (an early form of a fax machine). More than a century later, the federal Electronic Signatures in Global and National Commerce Act and the states' adoption of the Uniform Electronic Transactions Act have paved the way for e-signature adoption across many industries since 1999. Despite the ubiquity of e-signatures, then, why do we rarely see them being used by the signature-dependent legal industry?

It's no secret that the legal industry resists change, especially when it comes to technology. However, the normalcy of e-signatures, coupled with the positive business impact, should quickly persuade law firms to replace their outdated print, sign and scan models with the streamlined e-signature alternative.

In my experience as a patent attorney, I have discovered the benefits of e-signatures. For seven years I worked at a large patent firm and was immersed in a business that was dependent on the successful completion of signed documents. I observed the amount of time and resources that went into the signing process, from preparing and aggregating documents to be sent to clients for signature to the time spent waiting for them to be returned with all of the correct signatures. Realizing that a law firm bears the responsibility for the timely, proper execution of all forms and documents, I could not help but recognize the risk that a law firm assumes with the slow and burdensome traditional signing process.

Later, when starting my own firm on a limited budget, I used these observations to devise a new way to distinguish my practice. Instead of renting an expensive office space or hiring support staff, I invested my resources in an in-house development team that would automate the administrative process. Of all the client-facing administrative tasks we automated, I found that integrating e-signature technology not only maximized our firm's operational efficiency but also provided a premier client experience.

Simple automation technology has enabled my firm to grow exponentially, but the benefits of e-signatures are not just limited to small start-up law firms. They apply to BigLaw and boutique firms alike. Below I outline some of the benefits of e-signatures, as well as the considerations in selecting an e-signature provider, that can provide today's lawyers with the necessary tools to make their pending e-signature decisions.



IMAGE BY AMPLESPACE/THINKSTOCK



By Yuri Eliezer

E-signatures are faster and far more secure than “wet” signatures.



# Enhancing Your Practice Efficiency with E-Signatures



## THE BENEFITS

**Meet client expectations.** Clients are increasingly familiar with e-signatures as they realize the convenience in the ability to sign anywhere or at any time. As their acclimation with e-signatures settles in, clients expect the e-signature option and its added benefits over the burdensome print, sign and scan model. And since lawyers function in a client-driven industry, they really must integrate client preferences into their business models or risk clients moving to another law firm that will accommodate those preferences.

**Save time.** No technology survives the test of time unless it improves efficiency. In the legal industry, where time is money, this is likely even more true. By making intelligent technology decisions, law firms can minimize the time spent on administrative tasks. This results in a time surplus that can be used to improve client experience and/or expand business. Although proven to decrease turnaround time in getting clients to sign documents, the basic e-signature tool may not necessarily save on internal firm administrative time. However, when the e-signature technology is coupled with the right workflow automations (e.g., form/document automation, task automation and document routing), the time savings grow exponentially.

**Maximize profit.** The legal industry is often wary of reducing the administrative billing time that accompanies the efficiency of e-signatures. As the industry turns to fixed-fee models, automation tools become integral to increasing profit margins. Moreover, law firm revenue is sustained by providing the best client experience. Using technology intelligently increases client confidence in their attorneys, as it increases the perception that they are using the most efficient administrative practices to work in a cost-effective manner. This leads to happier clients and continued business. This repeat business, rather than minor gains in billing for administrative tasks, is the root of a law firm's success.

**Reduce error and increase integrity.**

We have all heard that age-old saying “Everyone makes mistakes,” and while this is true, the fewer errors, the better—especially in law. E-signature technology can dramatically reduce the likelihood of making mistakes. The simplified structure of e-signatures—in contrast to the multi-step print, sign and scan model—reduces error on the client's end. An e-signature tool will guide your client in completing the necessary fields in a form, by showing them where to sign and date. Moreover, the signed documents remain locked and unable to be edited, to ensure that no changes are made to the document. Each access to the document is tracked in an audit trail accompanying each signature: the date/time/name/IP address are all logged and attached to the signed document. By significantly reducing the number of steps required to send and intake signed documents within the firm, the opportunities for delays decrease. This, then, results in comprehensively reducing errors and significantly decreasing non-billable administrative time.

## FACTORS TO CONSIDER

Lawyers' apprehension of considering technology is not totally off-base; in terms of e-signatures, certainly some service providers are better suited to a law firm's needs than others. In choosing a solution that meets the specific needs of a law firm, it's important to keep the following considerations in mind to mitigate risk and reap the full technological benefits.

**Ease of use.** It's no secret that law firms have little spare time to expend on learning how to use new technologies. Given that, the e-signature solution must easily integrate into the pre-existing workflow. Providers that require third-party involvement, in which emails are sent from that third party to the client, rather than via direct communication between the law firm and the client, can be a major inconvenience for both the firm and the client. The client tends to either identify these emails as spam or disregard them as irrelevant, and the firm, because it is

responsible for effective communication, is tasked with manually sending extra email reminders to notify the client of the upcoming signature request.

To ease the transition, some e-signature providers are introducing integrations with document management systems and email providers. This can significantly ease the process of introducing the e-signature solution, as the law firm does not need to change the way it is accustomed to working. The tailored provider that successfully pinpoints a law firm's pain points without structurally changing its workflow allows firms to integrate solutions much quicker and easier—and, consequently, the improvements in efficiency are more immediately apparent.

**Tangible security.** Security is a prime concern for the legal industry, yet it is often cited as one of lawyers' biggest trepidations with technology. With respect to e-signatures, they wonder, If my data is stored somewhere else, does that compromise security? And, further, How can I prove the identity of signers when I do not actually physically see them sign? With these questions in mind, law firms must select an e-signature solution that considers these concerns. With e-signatures, there are two main parts to a secure process: (1) document integrity, which is ensuring that the documents have not been tampered with; and (2) signature integrity, which is being able to verify that the viewers and signers of the document are, in fact, the intended recipients of the document.

To verify document integrity, it's important that the e-signature provider houses all data in a secure location. The next question often is, What exactly is a secure location? The most secure facilities have achieved ISO 27001 certification and are always protected by a trained security staff armed with state-of-the-art technology, such as video surveillance and intrusion detection systems. To ensure document integrity, it's also important that all connections are fully encrypted. The most widely used encryption is SSL, the same level of protection used by banks and



government agencies. E-signature providers also ought to encrypt the documents so they cannot be manipulated.

As for signature integrity, the e-signature provider should have authentication processes in place. Comprehensive protection may include email authentication, pin code authentication and knowledge-based authentication, in which the firm can employ as many of these modes to verify the signer. An audit trail is also absolutely essential in verifying the e-signing process. The audit trail tracks the chain of access and custody of each document and allows the law firm and the client to see dates, times, IP addresses and email addresses of all document views and actions. This allows all parties to detect any unauthorized document access or signature manipulation.

**Training and support.** In the legal industry there is no standard of technological knowledge. Some lawyers and legal staff are tech geniuses, while others are almost completely unaccustomed to using it. With that in mind, selecting an e-signature provider that will allocate the resources required to train the attorneys and staff will free law firms of the tech-training burden.

Suitable training can be the difference between drastic improvement or a stagnant, unused solution. All too often law firms adopt technology only to find that the users are not equipped with the necessary knowledge to take advantage of it. They then turn to the provider, and the training results vary widely. Some providers conceptualize training as website FAQs and recorded webinar demonstrations, whereas others adapt to a law firm's specific needs, either visiting on-site or providing custom live webinars. Having a provider that offers training that accommodates the disparity of tech knowledge will enable a law firm to successfully implement a solution without diverting resources from other business initiatives.

Similarly, many e-signature providers subscribe to the "do-it-yourself, fix-it-yourself" philosophy. But when

something goes awry, a law firm needs it resolved immediately and effectively. As with training, some e-signature providers leave their customers to rely exclusively on website FAQs and tutorials; others are fully committed to resolving all problems. Selecting a provider that is committed to providing the best customer experience by providing full support can be instrumental in the successful implementation of the solution.

## E-SIGNATURES VERSUS WET SIGNATURES

A common reaction to e-signatures is, "Why would I do this when my 'wet-signing' practice has worked?" My response is to consider whether you are working in the most efficient way possible and whether your practice has been built to sustain the forthcoming digital pressures of the future.

I recently conducted a study to unveil the effects of e-signatures on efficiency. This study surveyed law firms nationwide and found that e-signatures can accelerate the process of sending and receiving signed documents by seven times when compared to the wet-signing alternative. Furthermore, the study found that by implementing an e-signature solution, law firms, on average, save eight hours per administrator each month on administrative tasks related to the signature process alone. With this saving of time in mind, you might consider the opportunities for business growth that could materialize by eliminating the administrative burden entailed by wet-signing practices.

Further, in raising concerns about the security of e-signatures, I would like

to invite law firms to think about their current methods, as I did when I pondered implementing an e-signature solution. With traditional signing, the only way to confirm a signature's authenticity is by physically watching the client sign. When a document is sent via email to a client to print, sign, scan and send back, the lawyer or administrative assistant is not present to watch the client sign. Thus the major difference in document integrity is that, with e-signatures, law firms have an arsenal of authentication tools at their disposal—emails, pin codes, knowledge-based authentication and audit trail—to confirm the authenticity of the signature. Also, the only way to ensure that a document has not been tampered with using wet-sign methods is by painstakingly comparing the signed copy of the document with the original version. By contrast, in choosing a smart e-signature tool, law firms will know that their document is read-only and that only the specified fields can be populated by document recipients. This, in turn, ensures that no other alterations can be made to the document.

## CONCLUSION

The decision to adopt technology is often frightening and seems immediately irrelevant. However, the benefits of e-signatures are quickly forcing change—and this decision will soon be immediately crucial. By making an educated and informed decision, law firms can experience exponential growth, as I did when I founded my firm three years ago, without falling victim to the dreaded technology fears. **LP**



**Yuri Eliezer** is a founding attorney of a firm known for in-house automation technology, Bekaries Eliezer LLP. The firm's in-house technology spun off into ClientSide Technologies, a company devoted to automating administrative workflows in the legal industry. He would like to acknowledge the valued assistance of Neha Vyas, a legal content specialist at ClientSide, in the research and writing of this article. [yuri@goclientside.com](mailto:yuri@goclientside.com)



New productivity tools that you can use right now.

# What's New in Microsoft Office for Lawyers



By Ben Schorr

**M**icrosoft Office and Office 365 are the platforms that most lawyers use to produce work product and run their practices. At Microsoft we're committed to helping people achieve more and, to that end, we're continually updating and improving our products. Listed below are a few things we've done lately that lawyers might find useful.

**Editor.** Editor is a new tool in Word and Outlook that can help improve your writing. When Editor detects that you may have misspelled or misused a word, it will underline the word with the familiar red, blue or gold squiggles. When you right click that word, Editor will give you more than the same old list of correct spellings—now it will offer you context to help you choose the word you might want to use. It might be the same word, spelled properly, or a similar word that is closer to what you actually wanted to say.

**Tap to reuse content.** Got an exhibit, chart or photo that you recently used in another file and would like to reuse in this document? With the Tap feature you can easily find that piece of content and insert it into your current document. Just go to the Insert tab of the Ribbon in

Word and select Document Item. A pane will open on the right, letting you browse or search through your content and select what you'd like to reuse.

Please note that this feature is currently only available to Office 365 subscribers with Office 2016 Pro Plus, which is basically anybody with Business Premium E3 or E5.

**Ink replay.** If you use Ink to annotate your documents, spreadsheets or presentations, you can use Ink Replay to play back that ink—sort of like the Telestrator used on football games. With Ink Replay you can see the ink strokes played back, in the same order they were written, to show a process or reveal a series of steps. You'll find Ink Replay on the Draw tab of Word, Excel or PowerPoint.

**Office 365 Groups.** One of the most powerful collaborative tools to be unveiled for Office 365 is Groups. Groups are like supercharged distribution lists. When you create a Group through Outlook (by

clicking New Group on the Home tab of the Outlook Ribbon), a lot of powerful things happen in the background. Office 365 creates a shared mailbox, a shared calendar, a OneNote Notebook, a SharePoint Team Site and a Document Library, as well as a Plan in Planner for you. You can create groups for practice areas, big clients or even large matters in your firm. You could create a group for Human Resources, one for the Technology Committee or another for the Social Events Planning Committee. Any group in your firm that needs to team up could have a group to work in. Then invite other people in your firm to that group.

When you add those other people to your group, they'll be able to see it in Outlook 2016 or in Outlook on the Web. There are also native Groups apps available for iOS or Android.

In your group you can have discussions in the shared mailbox, plus it has a public-facing email address, so you can have correspondence from outside

IMAGE BY PIXDELUXE/ISTOCK





(like automated court notices or messages from experts) sent directly into the group. The shared calendar is a great way to keep everybody up to date with the events pertaining to that practice area, client or matter. The document library provides a central place to store and collaborate on documents, spreadsheets, PDFs and other kinds of files related to the matter or practice area.

Your group content is accessible on the go. You can securely access it via the web browser anywhere you have internet access—from your laptop when you're at home, from your phone in the back of a cab, from an airport kiosk—or a hotel business center, for that matter.

If you prefer using persistent chat instead of a shared inbox to communicate with your team, you can use Microsoft Teams—also integrated into Office 365—to work that way. When you create a Microsoft Team, you get an Office 365 Group automatically, so you get the document library,

shared calendar and all the rest.

**Events from email.** Outlook 2016 can now discern flight reservations, hotel reservations or even rental car reservations in your email and automatically add them to your calendar. Place an order for something online? Outlook can recognize the package tracking information. All automatically created appointments are marked private by default, so if you share your calendar with others in your firm, they won't automatically see the details.

**Smart Lookup.** Select a word, right-click it and choose Smart Lookup. Office will use intelligent services through Bing to bring you not only definitions and synonyms but also rich content from sources such as Wikipedia to help you decide if that's really the word you want to use in that context.

**Use @ mentions to get somebody's attention.** Here's a potential scenario:

A: "I'm thinking about introducing the other photo of the accident scene at trial next week."

B: "Let's talk that over with @carolyn to get her opinion. She's the most familiar with the content of the photos, and she'd probably have some good insights on how the jury would react to it."

By using an @ sign, you can automatically add somebody in your firm to the email thread. In the example thread above, Carolyn would automatically be added to the "To:" field of the email so she can be brought into the discussion.

Note that @mentions also work in Office 365 Groups and in Microsoft Teams.

**Designer improves your slide decks.** If you use PowerPoint to present to groups or at trial, you may find that your content side is stronger than your creative side. Designer is here to help make suggestions for how you can make your slides more visually impactful. The first time you do something, such as add a picture or a bulleted list, that Designer might be able to help with, a gentle prompt will appear to the side. If you confirm that you do want Designer's help, it will open a pane on the right side of the screen with suggestions for how to make the content look better.

### Modern in-app help and support.

The days of the old Office help system, where you click the "?" icon and type a few words to hopefully be given a little article that helps you figure out what to do, are gone. In Office 2016 you have the Tell Me box that brings a lot more functionality than mere articles.

Not sure how to do something in Office? Click the "Tell Me What You Want to Do" box at the top and enter what you're hoping to do. For example, Table of authorities or Make text red. The Tell Me box will not only offer you some helpful articles to explain it, in many cases it will actually walk you through the steps needed to do what you want to do. It's almost like having a personal assistant at your side to coach you through using those features of Office with which you need a little help.

More than any prior versions, Office and Office 365 are even more effective for lawyers in a competitive legal market. Now featuring even better integration of Office applications, more robust collaboration options and expert formatting wizards, the newest Office and Office 365 are even closer to the reality of an on-demand expert assistant. A more robust help system with walk-through options serves as an expert trainer if you want more information. Try a free 30-day trial of Office 365 to see for yourself if these features fit your practice. **LP**



**Ben Schorr** is a senior content developer at Microsoft. He is also the author of several books on technology, including *The Lawyer's Guide to Microsoft Outlook*,

*The Lawyer's Guide to Microsoft Word* and *OneNote in One Hour*. He was a Microsoft Most Valuable Professional for more than 19 years and involved with management and technology for more than 25 years.  
**beschorr@microsoft.com**









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## IMPLEMENTING ENCRYPTION PAINLESSLY

By David G. Ries and  
John W. Simek

**E**ncryption is a topic that many attorneys avoid, but it is becoming an increasingly important part of security. Encryption is an electronic process to protect the security and confidentiality of data. While a growing number of attorneys report that they are using encryption, many use excuses such as “I don’t need encryption,” “It’s too difficult” and “It’s too expensive.” These excuses are misplaced: Attorneys need encryption, and easy-to-use (after setup) and inexpensive (sometimes even free) encryption solutions are available today. While attorneys will sometimes need technical assistance to install and set up encryption, it’s generally easy to use from there.

IMAGE BY KRULUA/THINKSTOCK





## WHY ATTORNEYS NEED ENCRYPTION

The existing encryption methods for phones are robust. Many will remember the 2016 case in which the FBI asked a federal court to require Apple to develop a custom version of its iOS mobile operating system to defeat encryption on an iPhone 5C that belonged to one of the San Bernardino shooters.

Protection of stored data on portable devices is a good example of why attorneys need encryption. After the high-profile theft from an employee's home of a Department of Veterans Affairs laptop and external hard drive containing personal information on about 26 million veterans in 2006, security guidelines for federal agencies added the requirement of encryption of all data on laptops and portable devices unless it is classified as "nonsensitive." That was 10 years ago. Since then there have been numerous reports of loss or theft of attorneys' unencrypted laptops, smartphones and portable media. A lost or stolen laptop or portable device that is encrypted is protected unless the password or decryption key has been compromised. The Verizon 2014 Data Breach Investigations Report explains the risk and notes that "encryption is as close to a no-brainer solution as it gets for this incident pattern."

## THE ETHICS OF ENCRYPTION

Encryption helps attorneys comply with their ethical obligations of confidentiality. The duty to safeguard client information is a minimum standard with which attorneys are required to comply. For example, the duties of confidentiality (ABA Model Rule of Professional Conduct 1.6) and competence (Rule 1.1) require attorneys using technology to take competent and reasonable measures to safeguard client data and electronic communications.

Some ethics opinions express a view that encryption may be required. For example, New Jersey Opinion 701 (April 2006)—over 10 years ago—notes at the end: "where a document is transmitted to [the attorney] . . . by email over the internet, the lawyer should password a confidential document (as is now possible in all common electronic formats, including PDF), since it is not possible to secure the internet itself against third party access." File password protection in some software, such as current versions of Microsoft Office, Adobe Acrobat and WinZip, uses a basic form of encryption to protect security.

California Formal Opinion No. 2010-179, Iowa Ethics Opinion 11-01, Pennsylvania Formal Opinion 2011-200 and Texas Ethics Opinion 648 (2015) conclude that encryption may sometimes be required for email.

## ENCRYPTION OPTIONS

There are many encryption options available today that are easy to use and inexpensive. Many are set-and-forget options or tasks for the IT administrator that provide a seamless experience for the users.

For example, you should start with a strong password and a backup plan. In many implementations of encryption, access to the decryption key is protected by the user's password or passphrase. Make sure that you have strong passwords or passphrases for encryption, for example, combinations of letters, numbers and special characters like "Iluvmy2008BMW!"

The backup plan should address both data and any recovery keys. Keep a secure

backup of all data, even data that is not encrypted. Back up the recovery keys in a separate place. In some implementations of encryption, a user can back up a recovery key that may make encrypted data recoverable if a user forgets a password or there is a technology problem. Back up the recovery key in a secure place. In midsized and larger firms, recovery keys should be managed by IT staff.

Encryption comes built into many devices. You should consider those as a

**Confidential data that is transmitted outside of a secure network should be protected. This requires secure connections between networks and over the internet.**

starting point. With many devices and current operating systems, encryption may be just a matter of turning encryption on. Current versions of Microsoft Office, Adobe Acrobat and WinZip encrypt documents when password protection is used. While not a perfect solution, it is much more secure than no encryption and is immediately available to most attorneys.

It has now reached the point where most or all attorneys should have the ability to use encrypted email, where appropriate, for confidential communications. A basic level of protection can be provided by putting the confidential communication in a password protected/encrypted attachment. There are now a number of easy-to-use,



inexpensive options that are available for securing email, including ones for solos and small firms. Search for “secure email” for a number of systems and vendors of readily integrated security systems for popular email programs or secure email clients.

Your communications infrastructure should also be configured for security. Confidential data that is transmitted outside of a secure network should be protected. This requires secure connections between networks and over the internet, for example, https or virtual private networks as a minimum. Avoid sending confidential information or emails over public wireless networks unless you are sure that you can do it securely, for example, with a properly configured virtual private network.

Make sure that your law office wireless network and home networks used for client data are protected by Wi-Fi Protected Access 2 (WPA2) encryption and are securely configured. If you are using an older wireless access device that does not support WPA2, replace it.

Cloud-based storage systems raise different issues as to who controls access to the stored data. Encryption controlled by the end user should be the default for confidential data stored in the cloud. This requires some analysis of the terms of service for measures to safeguard information relating to clients, due diligence concerning service providers, and requirements that service providers safeguard data in accordance with attorneys’ confidentiality obligations.

## ENCRYPTION TIPS

Review the following tips to see how easy encryption can be.

- iPhones (except very old ones) and iPads: Encryption is automatically enabled when a passcode is set.

Many attorneys are using encryption on iPhones and iPads without even knowing it!

- Android phones and tablets: In Settings>Security>Encryption, click or check Encrypt Phone or Encrypt Device. Some have a second box or button for encrypting the SIM card. Instructions may vary with the device manufacturer. Plug the device in to power when enabling encryption and carefully follow the on-screen instructions.
- Google has announced that encryption will be automatically enabled when a password, PIN or swipe pattern is set for most Android devices shipping with Marshmallow (but not upgraded devices). Just like iOS devices, the latest versions of Android devices (e.g., Galaxy S7) are encrypted by default.
- Microsoft Windows 10 (Pro and Enterprise): In Control Panel>System and Security, right click the drive, select Turn on BitLocker and save the Recovery Key in accordance with the on-screen instructions. Enabling BitLocker on a PC or laptop that does not have a special security chip called a trusted platform module (TPM) chip requires some additional steps. Follow the on-screen instructions or get help.
- Business versions of Windows Vista and newer also include BitLocker. All versions of Windows 8.1 and newer include Device Encryption, but it only works on devices, like the Surface Pro, that meet very specific technical specs. Follow the on-screen instructions or get help.
- Mac OS X: On the Apple menu, click System Preferences, then Security & Privacy, click the FileVault tab, click the lock button, enter the administrator password, click turn on FileVault,

and save the Recovery Key in accordance with the on-screen instructions.

- Instructions for password protection (encryption) in Microsoft Office, Adobe Acrobat and WinZip vary by program and version, but they’re all easy. For example, for Microsoft Word 2016: Under File>Information>Protect Document>Encrypt with Password, enter a strong password, enter it again. It’s encrypted!

We presume that no lawyer or firm wants to be faced with how to explain to a client that the confidentiality of the client’s information was compromised by the lawyer. Fortunately, tools and configuration settings in many of the office software systems you already use make reasonable encryption available. Some are on by default. Others need to be set up, often with no more effort than changing a setting. Some thought now can help you avoid that awkward conversation later. **LP**



**David G. Ries** is of counsel in the Pittsburgh office of Clark Hill, PLC. [dries@clarkhill.com](mailto:dries@clarkhill.com)



**John W. Simek** is vice president of Sensei Enterprises, Inc., a legal technology, information security and digital forensics firm in Fairfax, Virginia. John and David are co-authors, with Sharon D. Nelson, of *Encryption Made Simple for Lawyers* (ABA 2015) and *Locked Down: Practical Information Security for Attorneys, Second Edition* (ABA 2016). [jsimek@senseient.com](mailto:jsimek@senseient.com)



# Building a Law Firm on a Strong Foundation of Leadership

By Thomas C. Grella

**I BEGAN TO WRITE** this column on a 10.5-hour flight at the end of an awesome 10-day vacation touring the Molise, Le Marche and Abruzzo regions of Italy. Over many years of travelling to Italy, and through many miles of driving rental cars, I have been impressed with the excellent road system of Italy—well-maintained surfaces, extensive tunnels, circles instead of lights and rest areas. One tunnel through the Gran Sasso Mountains is over 10,000 meters long. My recent trip to Italy was shortly after a major earthquake had devastated Amatrice, close to the places I'd visited. Two more occurred within hours after our plane left.

Even though the road system was created with such precision, at times we were inconvenienced due to collapsed tunnels and crumbling road surfaces on the sides of mountains. Though Italian road workers do their very best to create a really fine road system, the earth's foundation upon which it is created is not sound due to two fault lines intersecting the country. So the job of the Italian road worker is never finished. As I drove those many miles, it occurred to me that many law firms are in a similar situation as the Italian road system. On the outside, to clients and the community, they seem successful and prosperous; however, deep down, out of the sight of many, they are not built upon a foundation that will sufficiently support through times of difficulty—and the inevitable change of the future.

Law firm leaders and managers really

do need to know if their organizations are built on a firm foundation or on sand. Listed below are some questions that should be considered—individually and among those in leadership or management of a law firm—to gauge what might happen if an earthquake of uncertainty or difficulty occurs.

### PERSONAL MOTIVATION

First, what is my motivation for being in the position I hold? This is the first, and most important, inquiry. If a leader answers this question incorrectly, asking the two questions noted below

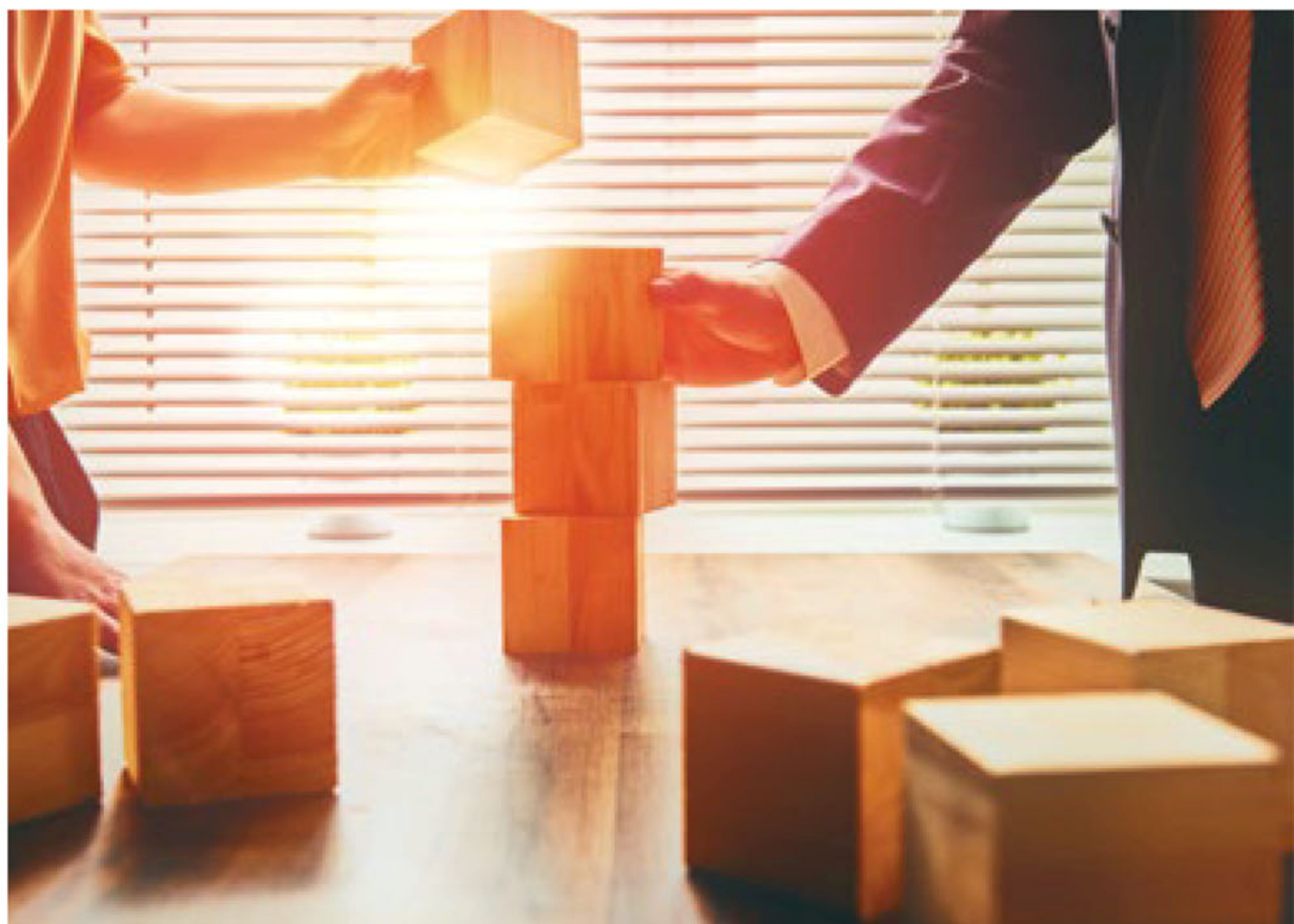


IMAGE BY CHOREOGRAPH/THINKSTOCK



**A certain kind of attitude of service solely for the good of others and the organization, and commonly referred to as “servant leadership,” should define motivation.**

becomes an exercise in futility, where the person with position should simply admit that though the firm may seem successful, it probably will never be on a long-term sound foundation.

Many very successful lawyers, recognized by their peers as

excellent in practice, are asked to serve in positions of leadership or management within their law firms. It is certainly important that a law firm be led by people who are familiar with, and strive for, success in all that they do. Leadership and management of a law firm, and those in it, however, is not the same as leading a client to a successful outcome. Managing and leading a law firm can be a very thankless job. It's certainly not a position that every lawyer should be expected to simply “take their turn” at. A certain kind of attitude of service solely for the good of others and the organization, and commonly referred to as “servant leadership,” should define motivation. All other motivations are lacking.

But how can a person in a position know if he or she is truly a servant leader or just telling him- or herself that is the case? The leader should ask—or ask others—how important the following are to himself or herself: (1) instant gratification, (2) recognition



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**Even though a leadership development plan in one law firm may look very different from that of another, every firm desiring to exist past the end of the present leader's service must have a plan.**

by others and (3) wielding power. These are the characteristics of a self-serving manager, as opposed to a servant leader. Also, servant leaders do not react defensively to feedback, since it is all about the good of others. They are not afraid of—and have time for—firm succession planning, since the future of the organization is of utmost importance.

### **PRESENT ACTIVE SUPPORT**

It's important for every leader to ask, Am I creating an environment of encouragement and support for those I lead and manage? To create such an environment, a leader must not only provide to those working in the firm the physical tools and resources needed to succeed but also have an attitude that sends a message of care, understanding and a true desire to support. Obviously, this is not something that can be faked. At the same time, a leader who truly desires to have such a caring attitude might simply get too busy. Effective leadership takes discipline,

and I suggest that every leader continually inquire of himself or herself the following questions. First, am I supporting my people by asking the correct questions? In many cases a question itself sends the signal of care and support, regardless of what answer you hear in response. Caring leaders ask those being led questions such as:

“What's your opinion?” The response will help a leader gain insight and understanding, confirm or discredit assumptions and assess those being led. The question sends the message that the leader values the thoughts and ideas of the team.

“What do you need to hear from me as your leader?” The response will allow a leader to best serve those who are being led. The question sends the message that the leader is not only concerned about hearing himself or herself speak but is more interested in providing information that will help the team succeed.

“What can I do to better serve the organization as its leader?” The response will inform a leader what he or she can do to assure that those in the firm get their work done as smoothly as possible. The question sends the message that the leader understands that leadership is really about service, and not position, and that the leader is simply one integral member of a team.

Second, am I actively listening to answers? It's possible to inquire of followers but not really listen for real answers. In many instances the answers we need to hear are not only in spoken words but in the actions and attitudes hidden within a verbal response. In many situations asking questions of those you lead is less about what is asked than what is learned through active listening. By “active listening” I mean intentionally listening before deciding on a response—and training yourself to not interrupt. The natural tendency to interrupt usually occurs when a “listener” is formulating the next thing to say instead of listening. It's almost impossible to interrupt when you actively listen to others.

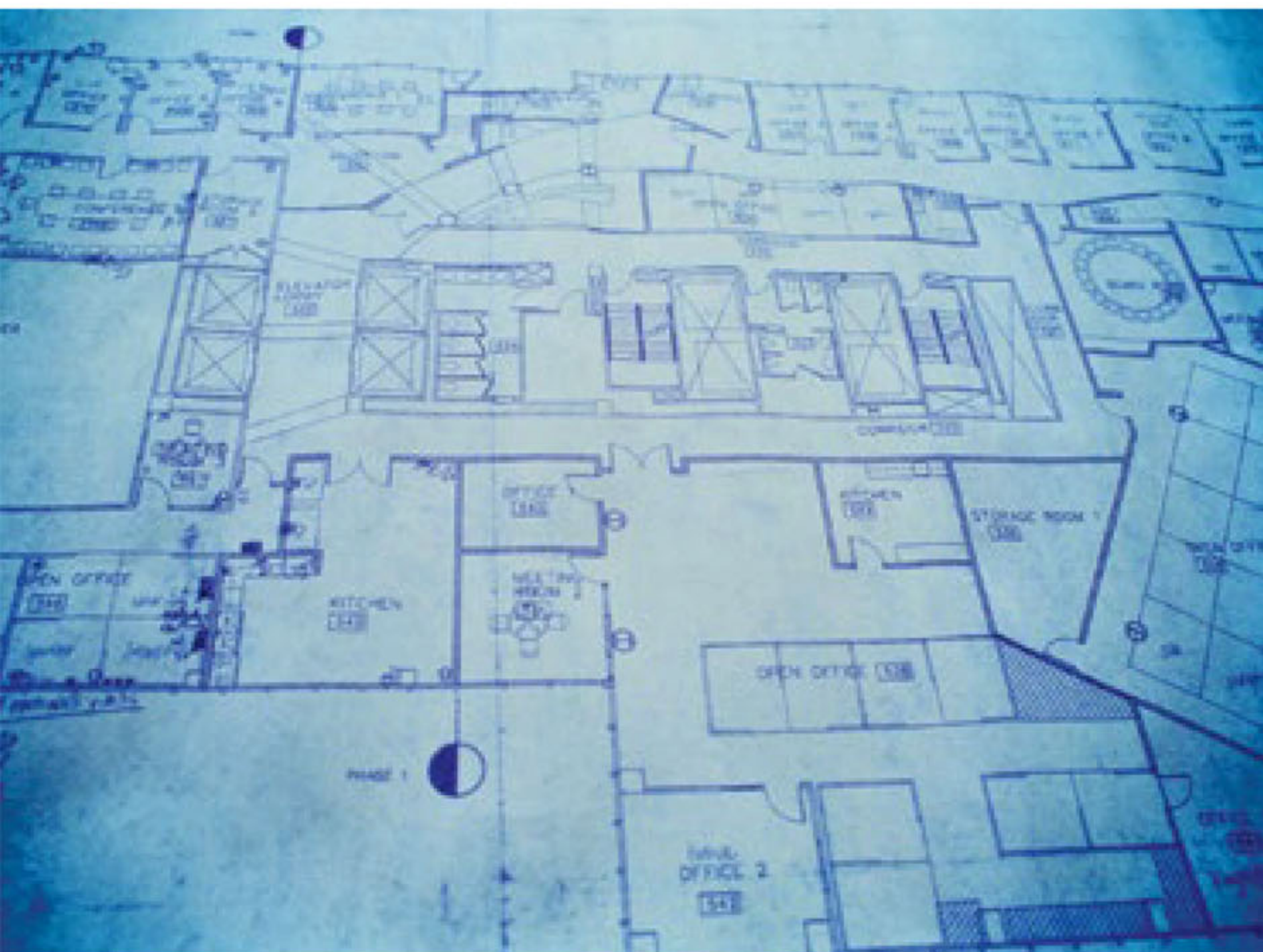


IMAGE BY RYAN MCVEY/THINKSTOCK



## PLANNING FOR THE FUTURE

Finally, the question to ask is, Am I developing others to lead and manage? I have seen many law firms, especially smaller ones, where a strong leader, motivated to help the organization and all of its members succeed, does not focus on the future to come after his or her own professional life. Without future leaders ready to accept the responsibility of leadership and management, most of these otherwise strongly led law firms are doomed to failure or collapse. Even though a leadership development plan in one law firm may look very different from that of another, every firm desiring to exist past the end of the present leader's service must have a plan. A successful plan will usually contain (1) a means of identifying leadership potential, (2) a system of support and growth of leaders, (3)

a leadership transition plan and (4) a commitment of support for departing leaders.

Those in positions of law firm leadership and management can assure that their law firms are more stable than the earth's surface of Italy by constantly checking motivation, asking great questions and implementing a sound leadership transition plan. **LP**



**Thomas C. Grella** is a writer and speaker on practice management topics and a past chair of the ABA Law Practice Division (LP). He practices law with McGuire, Wood & Bissette PA in Asheville, North Carolina, where he is a managing shareholder. [tgrella@mwblawyers.com](mailto:tgrella@mwblawyers.com)

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# Holding an In-House Technology Seminar

By Wendy L. Werner

**WHEN IT COMES TO** technology, not everyone is on the same page. There are still law firms where a senior partner may not read his or her email and asks a secretary to print emails and leave them on his or her desk every day. While this is increasingly rare, it's not unheard of. Similarly, certain junior lawyers don't like using email because they consider it "old technology," and they certainly don't think about writing an email with a salutation and closing. Based upon our most recent presidential campaign, with its specter of Russian hackers, various high-level government officials wish they hadn't written certain things on their computers. And then there is the attorney at the firm who is responsible for handling e-discovery issues who wishes that no one ever wrote anything even potentially discoverable in an email.

Thus it may be time for your firm to conduct an in-house technology seminar to get more people on the same page. You want to remind people of the kinds of things that they may want to consider doing, or not doing, on a daily basis to create continuity; set up some ground rules for using technology; and generally keep the firm's and clients' files and information as safe as possible.

## DETERMINING PRIORITIES

While you want to involve junior attorneys and other staff in the planning and delivery of the seminar, you need to ensure that the firm's decision makers determine the firm's priorities as reflected in your in-house programming. Start with the end in mind. What do you want everyone to take away from the program, in terms of firm policies, technology information and implementation? While most firms have a set of technology rules, over time they have a tendency to be eroded by changes in the technology, general practice and convenience. Different platforms used for convenience—from laptops to tablets to smartphones—may not carry the same kind of security that a desktop does, and the firm may not have maintained up-to-date written policies that address this wide variety of communication tools, particularly as they change and people adapt to new uses and instruments.

Make decisions about how firm members are expected to behave in the planning stages of your program, not during the actual presentation. The last thing you want to happen is to have firm

**While most firms have a set of technology rules, over time they have a tendency to be eroded by changes in the technology, general practice and convenience.**

members hashing out technology "rules" during a junior attorney's presentation. Just as you ask junior lawyers to research case law for client matters, you can ask them to find the latest files and case rulings on technology issues as they impact the profession. While this will likely not be considered billable time, it makes sense to offer credit to attorneys who gather this information in some measurable category, whether it's professional development or firm research. Helping the firm stay compliant with current laws on professional behavior and ethics should be seen as a contribution to firm development.

## THE OPPORTUNITY FOR UPSIDE-DOWN INSTRUCTION

Creating an in-house technology seminar is a great opportunity for both career development and training. Because so many junior lawyers (and sometimes other employees) are interested and skilled in technology, this is a chance for you to showcase both their interests and abilities. If you agree with attorney and author Daniel Pink that the three most important aspects for employee engagement in the workplace are autonomy, mastery and purpose, putting junior people in charge of aspects of this program is a great way to engage them in all three arenas. In addition they gain valuable experience in learning how to make an effective presentation and, if paired with a more senior attorney, they gain exposure to someone with whom they may not work on a regular basis.

## SET YOURSELF UP FOR SUCCESS

When it comes to educational programming, you want to set up your program for the greatest likelihood of success. One of





the biggest problems with CLE programs is the “talking heads” issue. Adult learners have different motivations and will get more out of any program if it is focused on the way that adults learn. According to Malcolm Knowles, an early pioneer in the theory of adult learning, six elements assist adults in learning and retaining information.

Adult learning:

- Encourages collaboration.
- Utilizes knowledge and life experiences.
- Is goal oriented.
- Is relevancy oriented.
- Highlights practicality.
- Is self-directed (i.e., autonomous).

Set up your training program with these elements in mind. If you focus on them, it’s unlikely you’ll run a program that is confined to lecturing panelists. Two of your most significant initial concerns will be deciding how long the program should run and how many topics you should cover. Less is more. Because most attorneys are paid based on their billable hours, the last thing you want to do is to take a substantial amount of time from any given billing day. Better to conduct four one-hour programs than to spend half a day covering multiple topics. In addition, for those who find technology challenging and for whom technology jargon is a foreign language, a long program likely increases problems with content retention.

When implementing the program, consider pairing speakers or panelists with different levels of experience. What this may mean

is that a speaker with less legal experience may have more technology experience. But to get the buy-in at all levels of the firm, it’s useful to have that presenter paired with an attorney whose legal expertise is more widely acknowledged in the firm.

Understand that you may want to include two different components in each of your programs. One would address learning tools and content. Firm members with different levels of technology expertise should be able to leave the program knowing that they have learned something new about technology. The other component includes firm policy and implementation. Based upon what we want people to be able to use on behalf of their clients or themselves, what are the policies and procedures that you want everyone to follow to keep the firm and its clients safe?

Use a carrot-and-stick approach. While you seek compliance from everyone in the firm based upon a shared value system and the provided information about what can go wrong when individuals freelance their technology behavior, there is also significant value in delineating consequences for failure to comply with firm policies. In the end, you are looking for people to buy in to your policies—so give them compelling reasons to do so.

### IF YOU ARE INVOLVED

If you are a member of a planning committee for an in-house training program, consider the ways you can contribute most. What have been the best programs that you have attended in the technology arena? What made them successful? In addition to good content, what did speakers do to keep the audience engaged? At the end of your program, you want to be able to say that the participants learned something, met some developmental standards and the firm is better situated regarding technology as a result. **LP**



**Wendy L. Werner**, principal of Werner Associates LLC, is a career and executive coach and law practice management consultant. She was the chair of the ABA Law Practice Division’s Law Career Paths Task Force and is a member of the Publishing Board. [wendy@wendywerner.com](mailto:wendy@wendywerner.com)



# Diversity and Inclusion Is a Marketing Tool (and Necessity) in 2017

By Micah Buchdahl

**AS LAW FIRMS SEEK TO** identify successful channels to new routes of business development, many are eyeing diversity as a means to that end. For some, a pointed increase in the insistence of diversity in the law firms that are selected for work from corporations and government agencies has meant a change in direction and a need for change in hiring practices and retention efforts.

Increased diversity requirements in the request-for-proposal process have been a boon to some firms and a bane for others. This holds true for many Fortune 500 companies and in the distribution of government contracts. Of course, these requirements are not just for legal services.

General Mills announced that advertising agencies competing

to pitch for its creative account must be staffed with at least 50 percent women and 20 percent people of color within their creative departments. From Coca-Cola and PepsiCo to Johnson & Johnson, there are requirements and policies in place to select outside vendors in every industry and category.

## STOCK PHOTOS NO LONGER COUNT AS BEING DIVERSE

Not to make light of a serious subject, but there was a time that diversity efforts in a law firm marketing project such as a brochure or website meant getting a stock photo that featured a group of diverse men and women standing around a conference table. You know the picture I'm talking about. We see it all the time.

I still recall walking into a law firm client asking what was new, only to be told that every visibly diverse attorney at the firm had recently departed. When I say "visibly," it is because I was told that there was still an openly gay partner at the firm, to which I responded that you could not determine that in a marketing photo. The true gist of the conversation was not so anecdotal in nature. It was about



IMAGE BY SAVARYN/THINKSTOCK



## The endgame of greater diversity in the legal profession is still sorely lacking.

the firm's frustration in not being able to retain diverse talent. The argument being twofold: that many attorneys are stolen away by corporate legal departments seeking greater diversity and/or that the law firm environment and culture is simply not "comfortable."

This column isn't about the efforts and inroads that law firms are making toward fixing those problems. But it does highlight the frustration that some firms feel in realizing they are losing out on business because they are just too one-dimensional in the makeup of their attorney base. There are still a lot of all-male, all-white firms that thrive. But they better not be reliant on work from the many entities that simply will no longer consider them as candidates for outside work.

### MEMBERSHIP HAS ITS PRIVILEGES

"Membership has its privileges" goes the long-standing American Express slogan. Law firms clamor for membership, exposure, sponsorships and leadership opportunities in a number of diversity-focused organizations heavily linked between businesses seeking diverse counsel and law firms seeking to offer it. Some law firms have even changed ownership structures simply to qualify for membership.

Others are created with identification as being women- or minority-owned as the key element of their initial branding and market offering. Combine that with authentication through membership or affiliations with respected organizations, and you have a business model.

Being "on the list" can be a major source of business in numerous states and corresponding practice areas. The National Association of Minority & Women Owned Law Firms (NAMWOLF) is one of those highly sought after memberships that have proven to be a tremendous business development tool. Perhaps a good comparison would be to suggest that an in-house counsel taking the safest route on bet-the-farm litigation might go to a Cravath or Sullivan & Cromwell; the same in-house

corporate lawyer might select a law firm from the NAMWOLF ranks to show that he or she has taken diversity seriously in hiring outside counsel.

NAMWOLF, founded in 2001, describes itself as "a nonprofit trade association comprised of minority- and women-owned law firms and other interested parties throughout the United States. Many corporations and public entities interested in diversifying their outside law firm ranks have focused almost exclusively on the utilization of minority and female attorneys at majority firms. *Yet the available data strongly suggests that these efforts have not resulted in greater diversity in the legal profession*" (emphasis added). I found the last line of their description most troubling—that the endgame of greater diversity in the profession is still sorely lacking.

The Minority Corporate Counsel Association (MCCA), founded in 1997, advocates for the expanded hiring, retention and promotion of minority attorneys in corporate law. Membership and participation in MCCA is another way to "get on the list." If NAMWOLF is more

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**Today, hiring corporations are not so much interested in what your numbers look like as who is doing the work. In other words, the attorneys staffing the matter actually have to be diverse as well.**

boutique-focused, MCCA involvement is a virtual Who's Who of BigLaw. MCCA is the intersection of large corporations and large law firms.

Numerous other organizations are focused on aspects of diversity. The Women's Business Enterprise National Council's mission is identify and certify businesses owned, controlled and operated by women in the United States. The well-known and often publicized DuPont Legal Model includes a commitment to diversity and inclusion as one of the four parts for being in its "network." But this list of organizations is far from complete. For

those law firms interested in joining or participating in these or similar organizations, I urge you to speak with other member firms, look at how stringent requirements are and make sure you truly can provide what is being sought.

#### **WHO IS WORKING ON THE MATTER?**

For a long time simply showing diversity on paper was good enough. Or perhaps you were major players in the MCCA or a similar organization. Sponsorships were a great way of showing a "commitment to diversity." Of course, you also have your various women's initiatives and related enterprises within the law firm. These are all very nice things to do. However, like the stock photo, the proof was not always in the pudding. As with the General Mills example, today, hiring corporations are not so much interested in what your numbers look like as who is doing the work. In other words, the attorneys staffing the matter actually have to be diverse as well. It is changing the approach some law firms are taking to going after such work. Are you really diverse, or does it just sound nice?

#### **ABA GOAL III**

In 2008 the ABA adopted Goal III, to "eliminate bias and

### **WORLDOX ENCRYPTION AT REST (WEAR)**

#### **Why is security important?**

According to the American Bar Association, "in 2012, 90% of IT respondents said their organization had experienced a breach of document security." As a result, clients are demanding assurances of security and compliance before working with a new law firm and may take their business elsewhere if their existing counsel cannot meet their security requirements.

#### **Why do you need Encryption?**

One way of protecting documents is to encrypt them. Encrypting files means rendering them unreadable to anyone who is not authorized to see them. Encryption technology is a critical component in meeting client needs for protecting their data as well as for compliance with HIPAA and other regulatory requirements.

ILTA's latest technology survey lists the single biggest law firm security challenge as the ability to balance security with usability. Bruce Schneier, security and privacy specialist, said it best when he stated that "Encryption works best if it is ubiquitous and automatic. It should be enabled for everything by default, not a feature you only turn on when you're doing something you consider worth protecting." World Software Corporation has taken this approach to our revolutionary new feature, Worldox Encryption At Rest, or WEAR.

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enhance diversity.” A focal point of Paulette Brown’s ABA presidency last year was a one-year inquiry into how to develop sustainable action plans that would advance diversity and inclusion in the legal profession, the judicial system and the ABA itself. A major initiative from the Diversity and Inclusion 360 Commission was the passing of a policy requiring certain diversity thresholds for the faculty of every CLE program put on by or through the ABA.

As chair of the ABA Standing Committee on CLE, I had the opportunity to be a part of the discussions surrounding the policy. While our committee unanimously endorsed the policy, it was not without significant questions and pushback from various entities within the organization that believed these requirements would be a hardship on those putting together ABA CLE programming. In 2016, should an association the size of this one really struggle to meet a relatively attainable goal toward diversity? There are entities that believe these diversity thresholds are too difficult and out of reach.

The Law Practice Division has long had an active Diversity & Inclusion Committee, and many topics have been covered in detail over the years in this magazine and the *Law Practice Today* webzine. If the ABA is a microcosm of the profession as a whole, then it is easy to see why impactful diversity remains so elusive.

Law firms should continue to strive for diversity and inclusion success because it is the right thing to do. And, if the end result happens to be an improved bottom line, all the better. **LP**



**Micah Buchdahl** is an attorney who works with law firms on business development initiatives. Based in Moorestown, N.J., he is president of HTMLawyers, Inc., a law marketing consultancy. He is a past chair of the ABA Law Practice Division (LP). [micah@htmlawyers.com](mailto:micah@htmlawyers.com)

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# A 'Periodic Table' of Law Firm Profitability for Small Firms

By Peter Roberts

**AS YOU SIT IN YOUR OFFICE**, do you wonder what might be reasonable financial performance for your firm? New client matters are increasing each month, and your lawyers and staff are reaching their capacity. You wonder what your firm's future financial performance might be if you were to add lawyers. You may believe your compensation as a partner may be acceptable, yet you may doubt whether acceptable is reasonable as you consider your firm's profitability now and in the future if your firm grows.

Benchmarks or standards of financial performance are slippery concepts when applied across a broad spectrum of practice areas, number of lawyers and geographic locations. But let's not give up the task. It's worthwhile to examine the components of a law firm's financial performance (i.e., profitability). Let's look at the major components: gross revenue and office costs, as well as associate and nonlawyer staff costs.

The number of lawyers in a firm is the major influence of office cost, of course. And the decision to grow is momentous. Growth

implies capital investment, increased office costs, increased personnel costs and the need to manage these factors. Illustrated in Table 1 is a possible incremental effect of adding lawyers on the financial performance of a small law firm.

The table is necessarily simplified, and your costs will vary. Profit per partner varies directly with the number of partners, the effect of leverage and the ability to attract more lucrative clients as your firm grows. See Table 2 for the major components of office costs.

## THE GROSS REVENUE COMPONENT

Table 1 is conservative and assumes a minimum of \$150,000 per lawyer for fees received. With the addition of staff, your caseload can likely increase, thereby increasing the gross revenue per partner due to leverage. Members of the staff may also be billing for their time, which further benefits leverage. Leverage is the allocation of profit of nonequity timekeepers to the partners. If your practice includes a significant portion of contingent fee work, your results may be better than portrayed here.

**Table 1**  
**A "PERIODIC TABLE" OF LAW FIRM PROFITABILITY**

Lawyers	1	2	3	4	10	YOUR FIRM:
Partners	1	2	2	3	7	
Staff	0	1	2	4	7	
Gross Fees	\$150,000	\$330,000	\$500,000	\$550,000	\$1,600,000	
Office Costs	\$15,000	\$72,000	\$185,000	\$255,000	\$635,000	
Per Month	\$1,250	\$6,000	\$15,417	\$21,250	\$52,916	
Profit	\$135,000	\$258,000	\$315,000	\$295,000	\$965,000	
Profit per Partner	\$135,000	\$129,000	\$157,500	\$98,333	\$137,857	
Profit Percentage	90%	78%	63%	54%	60%	



**Table 2**  
**MAJOR SMALL-FIRM COST COMPONENTS**

Total Lawyers	1	2	3	4	10	YOUR FIRM:
Receptionist	0	1	1	1	1	
Paralegal	0	0	1	1	2	
Associate	0	0	1	1	3	
Legal Assistant	0	0	0	1	2	
Administrative	0	0	0	1	1	
Bookkeeper	0	0	0	0	1	
Total Payroll	\$0	\$30,000	\$130,000	\$190,000	\$420,000	
Other Office Costs	\$15,000	\$42,000	\$55,000	\$65,000	\$215,000	
Total Office Costs	\$15,000	\$72,000	\$185,000	\$255,000	\$635,000	

### THE OFFICE COSTS COMPONENT

Associates, staff and rent are your three largest office costs. Each lawyer's use of technology may affect the need for staff. Associate salaries and bonuses are widely variable. Costs related to a client's matter are excluded.

Rent is highly dependent on location. Your space needs vary by need for conference rooms, war rooms or possible office-sharing arrangements where two lawyers may work at home on alternate days. Your file storage needs will be affected by how paperless your firm is. Business development costs can be a significant variable, as can the premium for malpractice insurance. Your absolute numbers likely vary to a large degree from those in Table 2. Are the relationships between the amounts in your firm similar either directly or as a percentage of fee revenue?

### THE ASSOCIATES AND NONLAWYER STAFF PAYROLL COMPONENT

Two questions are: Will the addition of associates enable the partners to accept and perform more lucrative work? How billable will the nonlawyer staff be? Positive answers to one or both of these questions will increase the profitability of the firm. At 10 lawyers, I do not include an office manager, but the firm's managing partner may need to forgo billable hours—a cost—due to administrative responsibilities.

Each lawyer represents 2,080 annual hours (40 x 52 weeks) to contribute to the firm. A portion of these hours goes toward attending CLE programs, business development and some administration. You take time off for vacation and sick days. Perhaps you are encouraged to devote time to voluntary community activities and providing pro bono services. Adding up the time for these nonbillable activities could come to about 580 hours.

This brings us to 1,500 hours available for clients. Yet we all know that not all of these hours may be paid due to additional voluntary and involuntary pro bono services that you provide. By the end of the year, I believe each lawyer should collect the equivalent of 900 hours of billable time at their standard rate. For this analysis, each lawyer will collect a minimum \$150,000 per year or \$166.67 per hour. Your hourly rate is likely higher than that used in this analysis.

But what about the 600 hours difference between 1,500 available and 900 collected? This represents wasted time, unbillable work and more pro bono services. Consider whether too many of your clients are not paying you beyond the amounts allowed in this analysis. Turning away such work may not be easy, yet you must set a boundary. Remember there is an unlimited market for free legal services.

Fill in your firm's numbers in Tables 1 and 2 and let me know your perspective on this analysis. Start a conversation in your firm about growth and profitability. Your comparative numbers may give you a window onto your firm's financial landscape and inform you of what likely profitability awaits if you decide to add lawyers to your firm. If you decide not to add lawyers, you will at least understand why. **LP**



**Peter Roberts** is a private practice management consultant for lawyers. He was the Practice Management Advisor in the Law Office Management Assistance Program of the Washington State Bar Association for 13 years. He is active in the ABA Law Practice Division as co-chair of the Law Firm Finance Committee. [pete@practicelawadvisor.com](mailto:pete@practicelawadvisor.com)



# Managing the Robots

By Jim Calloway

**FOR THE ANNUAL** ABA TECHSHOW issue, it seems appropriate to discuss managing the emerging technologies in law offices. Tomorrow's law office technology is rapidly becoming that found in use today.

I have read dozens of articles over the last few years about the possibility of robot lawyers and/or artificial intelligence (AI) replacing lawyers. It's a hot topic for technology writers. But to the extent that lawyers have heard about it, they have a fairly unified opinion that this idea is absurd and ridiculous.

## CAN WE LEARN SOMETHING FROM LEWIS RICE?

But before we discuss robots, let's discuss Lewis Rice, a corporate law firm headquartered in St. Louis with more than 160 lawyers. As reported in the St. Louis Post-Dispatch, last year the firm decided to create a wholly owned subsidiary law firm named TuckerAllen. The new firm will employ 10 lawyers and will focus on providing flat-fee estate planning services to the middle class. Presumably none of these 10 lawyers will have a path to employment, much less partnership, at Lewis Rice.

I have no doubt that all of the estate planning documents generated by TuckerAllen will be generated through standardized intake procedures and an automated document assembly process. Automated document assembly is neither a robot nor AI, but it is a method of doing what lawyers used to do manually much more quickly.

But technology is not the only factor that led to the birth of TuckerAllen.

Tax law changes had some impact. Under federal tax law, in 2017 an individual can leave \$5.49 million to heirs and pay no federal estate or gift tax. A married couple doubles that amount, passing \$10.98 million to heirs tax free. Missouri has no state estate or inheritance tax, so many Missouri residents will have no estate tax burden. Estate planning

work for the moderately wealthy previously involved planning to minimize estate taxes. Now a client has to be in the \$5.5 million (or \$11 million) club to be concerned.

However, people still need wills, basic trusts and powers of attorney. An early inquiry is then, Are your net assets more than \$5.5 million per spouse or likely to be so in the near future? An affirmative response starts a discussion that likely ends with a referral to a Lewis Rice tax lawyer. The lawyers working at TuckerAllen can serve the remainder. Sometimes basic standard-fee legal work does not fit well within a large law firm structure. Lawyers who provide these legal services are certainly not positioning themselves on the partnership track.

So it makes perfect sense to have a separate small law firm do that work. And it also makes sense to have that law firm operate outside of traditional business hours. Potential clients who can visit with someone about their estate planning needs during an evening or weekend will probably take advantage of that opportunity, giving this firm a marketing edge over large firms that are only available after 5 p.m. by appointment.

## BACK TO ROBOTS

If, by robots, you mean humanoid-shaped bipedal machines, we will likely never see robots in law firms. But we will undoubtedly have increasingly smarter computers operating in law offices—and have them doing more for us. There really is no other choice.

For example, if you have to review, say, 650,000 emails produced in response to a discovery request, everyone understands that reviewing them manually would take too long and be cost-prohibitive. Even if a lawyer could review 1,000 emails per day, the review would take 650 lawyer days. So lawyers use forensic tools to deduplicate, filter and run various searches.

For many lawyers it's now fairly standard legal work to use forensic tools to search large data sets. I am reminded of my favorite article title of last year, in the January *Florida Bar Journal*, "Fight With (Not Against) the Machine," by Jordan Furlong, a futurist and principal at Law21.

## FROM THE BASICS TO MORE ADVANCED MACHINES

Let's start simply. Speech recognition software works very

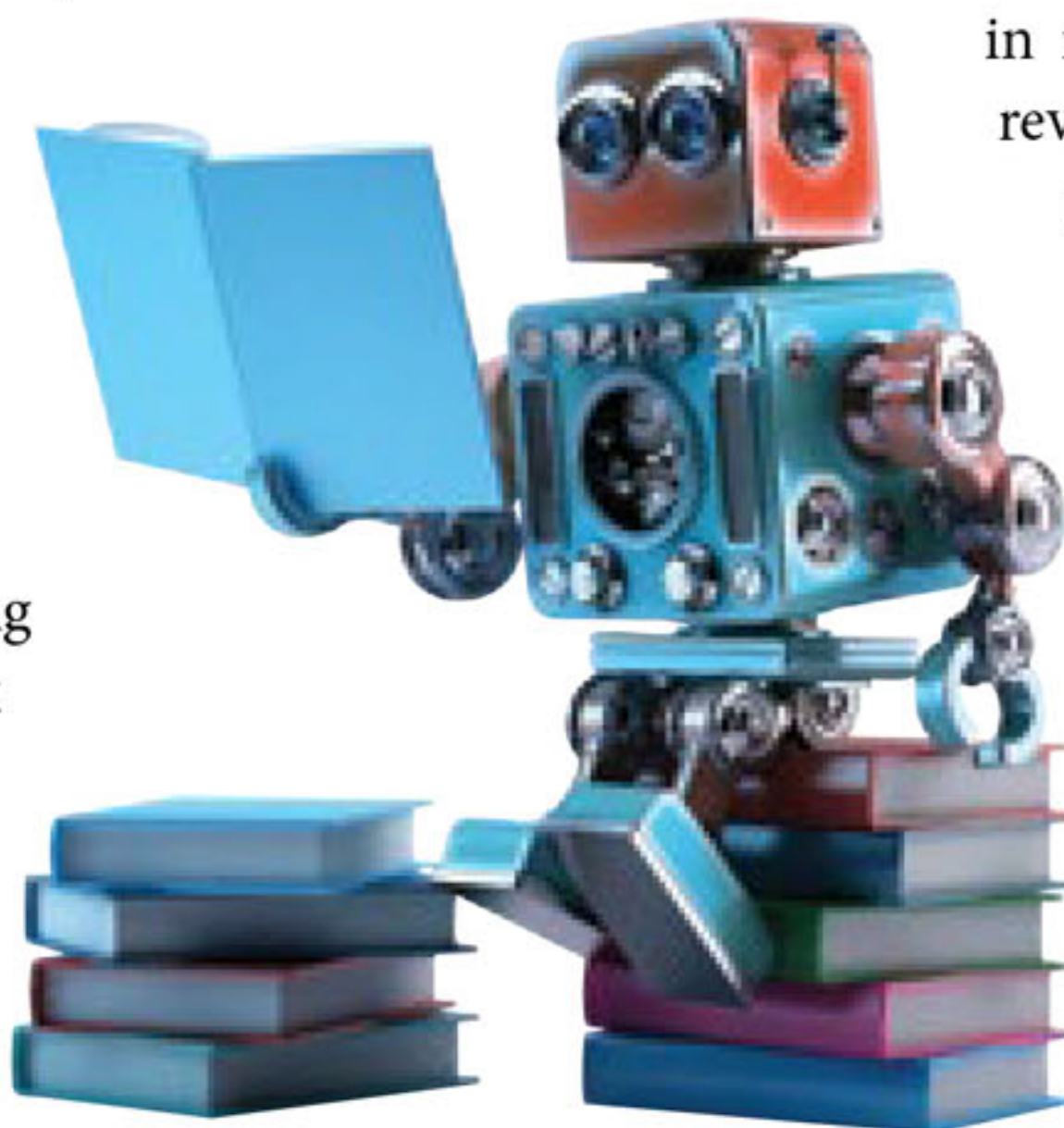


IMAGE BY KIRILL/THINKSTOCK



well today, as does automated document assembly. Pair those two ideas together and someday the result is a lawyer giving verbal instructions and client data to a machine, with completed legal documents then rolling from the printer.

The next advance is a client answering questions posed by a machine to prepare the documents. Relatively simple AI capability provides the machine the ability to restate questions if the answer seems inappropriate or ask some questions a second time just for verification.

The next question is, Who proofreads the work before it's delivered to the client? Or is proofing even needed? Today, that answer is yes—a lawyer should always proofread because the lawyer's and the law firm's reputation are on the line (not to mention liability). But that answer may soon vary depending on whether a \$100 bill of sale is involved or a multimillion-dollar corporate merger.

Hopefully this helps the reader understand why some futurists predict that many legal services will be provided under a subscription model, with the client paying a flat annual fee for all of the residential leases or bills of sale that may be needed.

Another interesting question is, Who profits from machine-generated legal services within a law firm? Let's just say that that could be a very vigorous discussion.

The next significant step is machine-learning AI, where the technology reports back to a law firm with suggested changes based on any errors or problems it "thinks" it's encountered—or just implements the changes based on its own initiative.

## CONCLUSION

So let's circle back to TuckerAllen or a similar firm. The lawyers there are extremely valuable. No matter what level of document automation is employed, they are the ones meeting with the clients, listening to the client's unique situations and offering suggestions and solutions. The lawyer's skill set will be more along the lines of positive client engagement than sophisticated legal analysis. They will be building relationships of trust. Lawyers have that advantage over robots, which gives us motivation to improve our people skills.

But, depending on how you define "robot," robots in the law office are no longer an idea relegated to fiction. **LP**



**Jim Calloway** is director of the Oklahoma Bar Association Management Assistance Program. He publishes the blog *Jim Calloway's Law Practice Tips* and produces, with Sharon Nelson, the monthly podcast *The Digital Edge: Lawyers and Technology* for the Law Practice Division (LP). [jimc@okbar.org](mailto:jimc@okbar.org)



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**technology.** It is very easy to spend a large amount of money on technology that never gets used. New software, new apps and new devices enter the market constantly. A firm should carefully consider how it operates and how a particular technology can enhance its product. If you buy technology that requires everyone to change how they practice, it will likely fail. There are many options for almost every type of legal software, and choosing the right one is paramount for successful use. For example, many options exist for practice management systems. Some are server based. Some are cloud based. Some will successfully incorporate software you are already using. Others may require you to make a wholesale change. Careful planning and analysis avoids a disastrous technology purchase.

**Find a technology consultant (or consultants) who understand your practice and practice style.** The best consultant I ever worked with in the technology arena took the time to get to know my law firm, its practice areas and the way our lawyers practice. She also spent time helping us to identify and prioritize

objectives. When we got through this process, it was clear that her recommendation was based on what was going to work best for us rather than which company paid her way to the most conferences. Before hiring a consultant, make sufficient inquiries so that you can be certain he or she is knowledgeable about a range of products rather than just one or two.

**Develop strategies to assist busy lawyers in incorporating technology.** Even if you purchase the perfect technology solution, it's only effective if lawyers and staff use it. Historically, my firm would hire a trainer to come in and spend a couple of days training us in the technology. Most of the time everyone would return to work and go right back to doing what they had been doing. You must develop strategies that allow lawyers to keep handling their projects but that build in new technologies at they go. Consider weekly half-hour or one-hour sessions that provide two or three items that a lawyer can readily incorporate into his or her practice that week. The following week, layer on. Sometimes you do need to have a full-day (or

thereabouts) training session. When that is the case, it's important to have follow-up strategies to support the use of new or updated technology.

**Consider technology as an opportunity.** Adopt compensation models that value lawyers who expend time and energy developing and applying technology in their practice and for the firm. If one lawyer automates the forms for a practice area, he or she should receive some financial benefit when other lawyers use those automated forms.

Technology creates opportunities for improving client service, increasing profitability, reducing lawyer frustration, improving accuracy and providing greater access to more consumers. But understanding and using technology do take a concerted commitment. **LP**

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**Mary E. Vandenack** is a founding and managing partner in Vandenack Weaver LLC, located in Omaha, Nebraska. [mvan-denack@vwattys.com](mailto:mvan-denack@vwattys.com)



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# Making Technology a Part of Firm Culture

By Mary E. Vandenack

**I RECENTLY ATTENDED** one of the premier substantive conferences in my practice area. One of the key speakers got up to the podium and announced that he didn't have a PowerPoint presentation. He then stated he was technologically incompetent. I could have easily lived without yet another PowerPoint, but I admit to struggling with a respected lawyer at a national conference acknowledging technological incompetence.

Comment 8 to Rule 1.1 of the ABA Model Rules of Professional Conduct states that maintaining competence includes staying "abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology . . ." The final report of the ABA Commission on the Future of Legal Services notes that advancements in technology and other innovations continue to change how legal services can be accessed and delivered, and it recommends that technology be employed in many ways that will facilitate improved delivery of legal services and provide access to the underserved.

Incorporating technology into legal services is fundamental to providing excellent client service. Therefore promoting the use of technology should be a consistent and habitual priority of law firm leadership.

**Law firm leaders should have technology skills.** Law firm leaders should embrace technology. It isn't necessary for them to know the details of the firm's network—although it isn't a bad idea—but it's important for leadership to understand what is going on in terms of technology as related to law firms generally.

**Consider valuing those lawyers who expend time and energy on technology.** When I was a partner at a regional firm, one of the Executive Committee members said to me, "It would be really nice if we could just pay you to develop technology, . . . but that's not the way it works." Maybe it should work that way. Some law firms are creating alternative tracks for lawyers whose job becomes creating firm systems and analyzing how to use technology more effectively.

**Make well-considered and appropriate investments in**

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