

VIRTUAL LAW PRACTICE

A PASSING TREND OR THE WAVE OF THE FUTURE?

BY AVIVA CUYLER AND NICOLE BLACK

Increasingly, the virtual law practice is being considered as a feasible alternative to the traditional law office. A number of factors fuel the current trend, including the economic downturn; the growing commoditization of legal services; demand for greater efficiencies and lower costs; increased availability and affordability of web-based practice management technologies; and, just as importantly, the growing comfort level of both lawyers and their clients with online communication, connection, and technologies.

What Is a Virtual Law Practice?

Opinions vary widely. Lawyer Carolyn Elefant (author of the 2008 book *Solo by Choice* and a well-known legal blogger) acknowledges that there are many definitions of the term but considers a virtual firm to be “one that does not have physical office space,” one where “attorneys work together online.”

Lisa Solomon, a New York-based contract lawyer who concentrates in legal research and writing, defines a virtual firm by the technology used to deliver services to the client.

Stephanie Kimbro, a practicing attorney with a virtual law office and co-founder of

VLOTech (www.vlotech.com), a platform that allows users to manage their practice over the Internet, offers a more blended definition: “virtual law offices can be completely web-based . . . or they can be . . . integrated into a traditional law office to expand the client base and provide the online services as an amenity to existing clients who will also visit with the attorneys in person.” Kimbro’s own virtual law practice, however, is completely web-based, one that exists online through a secure portal, making it “accessible to the client and the attorney anywhere the parties may access the Internet.” The VLOTech platform allows Kimbro and her clients to “discuss matters online, download and upload documents for review, calendar, handle billing, invoicing, and payments online, complete online forms, and handle other business transactions in a secure digital environment.”

Virtual Law Partners LLP (www.virtuallawpartners.com) is another example of a completely virtual firm: It is entirely web-based and has expanded rapidly through the last year, growing from eight lawyers when it was established in 2008 to 33 lawyers today. The lawyers work from home, communicating and collaborating with one another and their clients using a digital network.

Regardless of how one defines—or implements—virtual law practice, there are a multitude of benefits, challenges, and tools to consider.

Virtual Practice Benefits

One benefit of a virtual law practice is the reduced need for a real-world office space, which of course translates into lower overhead (no rent and other expenses associated with running a physical location).

Another advantage is increased flexibility. A web-based business allows a lawyer to practice law wherever there is Internet access (which, these days, means almost anywhere). Often, to connect with clients (or to reach new ones) requires not much more than a desktop computer, laptop, or mobile device.

This flexibility also translates into greater control over work-life balance; lawyers with a virtual practice can work not only *wherever* but also *whenever* they want to. And newfound technology allows lawyers to communicate and collaborate online with clients, other lawyers, paralegals, and assistants, irrespective of the physical distance that separates each from the other.

What are the other benefits to running a virtual practice? They include the ability to:

- expand a client base through the reach and visibility of an online presence;
- accept online payments; and
- offer alternative billing methods (such as flat or bundled fees and recurring online billing).

Virtual Practice Tools

Both Kimbro and Virtual Law Partners rely on web-based “software as a service” (SaaS) platforms to facilitate their virtual law practices. These sophisticated platforms allow virtual law offices to manage their practices and interact with their clients, other lawyers, and legal assistants.

SaaS is beginning to replace the software programs that you install onto your computer for a number of reasons. Generally speaking, SaaS interfaces are more intuitive and simpler to use. They are also far more cost effective, saving both time and money. There is no need for attorneys to stay abreast of security updates, hardware for backups, or the storage of critical data—the SaaS provider conveniently takes care of these issues for you.

In addition to VLOTech, there are two other SaaS providers offering lawyers software to manage their practices online: Clio (www.goclio.com) and Rocket Matter (www.rocketmatter.com).

Clio, a Canadian company, offers a web-based law practice management system targeted at sole practitioners and small firms. On its website, Clio is described as “a full suite of practice management tools target-

Aviva Cuyler is founder and co-manager of JD Supra.com, which helps members of the legal community showcase expertise by publishing, distributing, and promoting their articles, newsletters, filings, and decisions online. She may be reached at aviva@jdsupra.com. Nicole Black is of counsel to Fiandach and Fiandach, in Rochester, New York; is the founder of lawtechtalk.com, which offers legal technology consulting services; and publishes four legal blogs, one of which is “Practicing law in the 21st Century” (<http://21stcenturylaw.wordpress.com>). She may be reached at nblack@nicoleblackesq.com.

ed specifically at the administrative needs of sole practitioners and small firms. . . . Web-based, secure, and easy-to-use, Clio seeks to overcome many of the technical hurdles offered by conventional practice management solutions.”

Rocket Matter, based in Florida, offers web-based practice management and time and billing solutions designed exclusively for the legal industry. On its website, Rocket Matter is billed as “a new, imaginative solution specifically built for law firms. A clear focus on our customers provides for an easy-to-use, secure, cost-effective alternative that helps you efficiently bill as you work.”

One of these web-based practice management systems may well be the perfect solution for your law practice. But first, there are a number of factors to consider when deciding if a virtual law office is right for your law practice, and if so, which SaaS platform to use.

Virtual Practice Considerations

The advantages to virtual practice include lower costs owing to reduced overhead, less hassle related to maintaining and upgrading the case management system, and greater flexibility arising from the ability to access the web-based practice management system anywhere and at any time.

However, there are challenges as well—not the least of which is potential isolation from colleagues, peers, and clients. Luckily the networking ability of today’s online landscape can help. An attorney running a virtual law practice should, without question, connect with others online (via LinkedIn, Twitter, Facebook, etc.) and take advantage of local, real-world networking opportunities.

Furthermore, just because you don’t have a physical location for an office doesn’t mean you can’t see your clients in person: Take them out for coffee or lunch, or offer to make a house call at times of greatest need.

Another barrier to virtual practice is the battle against tradition: Because the concept of a virtual law practice is so radically different from the way in which law has been practiced so far, many people (attorneys and potential clients alike) continue to express reservations.

Many lawyers hesitate to transition to virtual practice owing to ethical, security, control, and access concerns regarding the tools that enable virtual law practice. And these concerns are real.

It is important to consider how the SaaS provider handles your confidential data, the portability of the data, and the format in which it will be provided to you should you choose to remove your data from the system or should the company go out of business.

You should ensure that your contract with the SaaS provider addresses these issues. It should include a non-disclosure clause and indicate that all data is the property of the law firm and can be exported in a readable format upon demand of the firm.

Another issue to consider is the level of service, the cost and ease of use of your existing practice management system compared to the web-based practice management system.

For example, how frequently are data backups performed? Is data backed up to more than one server? Where are the servers located? If a natural disaster struck one geographic region, would all data be lost?

Other issues to consider include: What type of facility will host the data? How secure are the data centers? What encryption methods are used? How are passwords stored? Are there redundant power supplies?

Ask yourself whether your current level of data backup and security compares favorably to the facilities that your SaaS provider will be using. In many cases, the answer will be “no”—small law firms simply cannot afford to provide levels of data security even remotely comparable to that of the SaaS providers.

These are very important issues that cannot be ignored. Confidentiality and ethical considerations are paramount in the practice of law. As attorneys, we have an ethical obligation to exercise due diligence in determining if a particular practice management system conforms to the ethical guidelines of the jurisdictions in which we practice.

Recently, two groups convened to address some of these concerns, with the goal of drafting advisory guidelines for virtual law offices. The hope is that doing so will help educate the legal profession regarding web-based practice management systems.

The American Bar Association has established an eLawyering task force in response to the understandable concerns raised regarding the ethical obligations and data security issues presented by virtual law practices. The task force has examined many of the issues presented and has consulted with legal malpractice insurance carriers, state bar practice management directors, and ethics specialists. It is now in the process of

drafting malpractice guidelines, which are expected to be presented to the American Bar Association’s Law Practice Management Section for approval in the spring of 2009.

Similarly, earlier this year, a small group of companies that provide SaaS products to legal professionals, including VLOTech, met to discuss the use of SaaS technology in law practice management. This group is now in the process of drafting minimum standards for the industry, which will address the security and technology concerns of attorneys relating to the operation of virtual law offices. The group will also establish standards regarding the use of any types of SaaS products in law offices.

Once these legal technology industry standards are established and virtual law office malpractice guidelines are published, lawyers may feel more comfortable with the idea of adding a virtual component to their law practices.

Conclusion

When deciding whether a virtual law practice is right for you, the first step is obvious: Balance the advantages and disadvantages of a virtual practice and then consider your firm’s needs, the comparative costs, your comfort level with the security of the technology, and its ease of use.

The many benefits to virtual law practices are becoming increasingly evident in the current climate of change. As the legal landscape is altered, shaped by rapid technological advances and a harsh economic climate, the pressure is on to adapt the traditional law firm model.

In the midst of the current recession, the traditional law firm infrastructure is no longer working for many firms. Large firm layoffs are rampant, and many experienced lawyers are now finding themselves out of work, with no job prospects in sight.

Virtual law firms may be a viable alternative for many of these suddenly unemployed attorneys. The legitimate reservations about the practical and ethical issues presented by virtual law practices are becoming increasingly moot as the legal profession and vendors acknowledge these concerns and attempt to respond to them.

Virtual law firms are more than just a passing trend. They are part of the next wave of lawyering, where the practice of law is not confined to an office—and virtually anything is possible. **GPSOLO**