Leveraging Your Technology Investment: Client Portals

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Many of you have attended one or more of my seminar presentations. You are probably familiar with many of the concepts I persistently and fervently present. One such concept centers on the use of readily available tools to level the playing field between solo & small firm practitioners and large firms.

I continue to search for and report on new opportunities to level the playing field. Nothing I present is bleeding edge or risky technology. I usually wait anxiously until tools mature, and risk and use consequences are known. Yet, almost without exception, when I finally introduce these concepts to lawyers, it is often the first time they are really hearing about and understanding the new technology. A lawyer once complimented me following a presentation saying, "When I listen to you explain these types of things, it's like the sun coming up on a new day!"

In this article I introduce the concept of the client portal. This concept is not really new to any of you. If you've ever done online banking, booked travel online, scheduled a medical appointment, or even purchased from Amazon.com as a returning customer, you've used client portals. Driven by regulatory compliance issues, we increasingly use portals to communicate with our accountants, doctors, investment advisors, and others. Now it's time to consider using the technology to better serve your clients, as well as address ethical security and confidentiality concerns.

Let's start with understanding what a client portal is. Simply, it is a secure web space, accessible only with user name and password, which enables the firm and its clients to communicate, view and download or upload documents, and more. Information which is transmitted between the portal and the client is automatically encrypted.

The latest ABA eLawyering Task Force Study reveals that over 78% of large firms have been using client portals for quite some time. By contrast, only 8% of solos and smalls do, and that's mostly very recent implementations. What's going to drive rapid adoption of this new technology in the next few years is the recent availability of low-cost easy-to-use tools.

Large firms were early adopters because they had the technology infrastructure, budget, and tech support staff needed to successfully implement extranets, the technical term describing the precursor of the much easier interface we now refer to as client portals. Thanks to a new category of cloud-based applications, it has become technologically uncomplicated to incorporate portal technology into a firm's website design, or more valuably, through its practice management software.

At the most recent Solo & Small Firm Section Conference, Jennifer Ellis and I presented a session on Cyber Security. The room was packed. And it should have been. Lawyers have a heightened ethical obligation regarding technical competency. One must add to that a relentless and rapid growth of cyber-threats. For many lawyers regulatory issues come into play as well for protected information their practice area may require they maintain. For example, HIPAA applies to protected health information (PHI) acquired by attorneys doing personal injury or workers compensation work. Financial penalties for a data breach of HIPAA-protected information can be enormous. But that cost pales when compared to the PR nightmares a breach creates.

My counterpart and colleague at the Oklahoma Bar Association, Jim Calloway, shares a savvy witticism, "Dance like no one is watching, email like you'll be reading it in a deposition someday." ABA Formal Opinion 477 stresses, among many things, the need to take additional security precautions for email communications in certain situations by considering a variety of factors on a case-by-case basis. The difficulty of implementing safeguards in one factor.

We also must consider the determination of the United States District Court in West Virginia which held that a bank president who emailed his attorney using his company's email system waived his attorney/client privilege, because the company's email policy dictated that all emails sent through their account were considered company property.

So we've got a deadly combination of factors including the lawyer's need for technical competence, the lawyer's requirement to advise clients of risks related to communications and privacy, regulatory requirements, cybercrime, and internal risk management protocols which are all driving attorneys to come up with a workable policy, workflow and communication solution. I firmly believe it is easier just to communicate at the highest level of security regularly, rather than risk a faulty risk analysis or complete lack thereof. Especially when a client portal makes it so easy, and affordable.

So now you know what a client portal is. You understand why it's becoming an increasingly adopted tool to address so many concerns. Now let's

focus on the value-added aspects of client portals. Particularly for the solo and small firm lawyer.

First, let me state clearly that client portal capability is not for everyone. You have to know your current and future clients. If your client base is mostly older clientele, (including simple businesses), who are not tech savvy, they will probably prefer more traditional interaction including face-to-face meetings, phone calls and letters. Included in that traditional methodology for most is regular unencrypted email. (Remember, it's the *client* needs we must assess, not your personal comfort level!)

However, if your current and future clients are younger, or complex businesses of any depth and size, they have an expectation that at least some of your services and most of your communications will be delivered through a secure online platform. They have a desire to have greater access to case information. They want to have additional tools provided which enhance or streamline efficiency of your representation. And all want to control legal spend. Landing corporate clients nowadays requires you demonstrate that you've devoted thought and resources to controlling the client's representation costs.

Value-added functionality regularly included or added to a client portal include automatic updates on case status when new documents or calendar items or tasks are added, ability to schedule appointments, review the documents, review the case calendar, secure conversation-sorted communications, and client intake forms. Clients become accustomed to reviewing and paying their bills inside the portal. It greatly enhances cash flow.

Many portals include document generation capabilities, ranging from a simple export/merge into form documents, to a client-completed questionnaire which then produces the first draft of required documents, awaiting attorney review. Practice-specific tools may also be included. For a family law practitioner, for example, the portal can provide a client access to a child support calculator, alimony calculator and parenting plan wizard. A real estate lawyer might include tools such as amortization tables and a mortgage calculator.

Hopefully you have come to the realization that a client portal is an affordable way to address a myriad of ethical issues and security concerns. It also provides a value-added unique experience for clients; the type of experience you want them to describe to their friends and colleagues. Clio, the bar-endorsed practice management / time & billing software, includes simple-to-use client portal technology which is customizable by client/matter. Portal technology is also included in competing products such as MyCase, Rocket Matter, Practice Panther, Cosmolex, and others. If you've been thinking about upgrading your

practice management environment, here's another strong reason to move from thought to action.

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