

# On-Line Legal Services for Low and Moderate Income Clients: Private Market Solutions to Meeting Legal Needs

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## **Summary**

Moderate and middle-income families are seeking alternatives to using lawyers to solve their legal problems, from self-help software to independent paralegals to web-based legal information services. Solos and small law firms will continue to lose market share to these alternative solutions unless they can learn to re-engineer their legal service offerings to respond to the realities of serving this market sector. The American Bar Association has recently launched an effort to promulgate a model definition of the practice of law. The impact of this effort will make it more difficult for services programs to provide access to the legal system using the Internet and more difficult for law firms to use technology to deliver innovative legal services. More promising, another ABA Commission has recently initiated efforts to help lawyers serve the “latent market for legal services.” New approaches are being developed and funded by the Legal Services Corporation, which may have more relevance for private practitioners serving moderate-income families than legal service attorneys serving the low-income community. The Internet provides new opportunities for collaboration between the legal services community and solos and small law firms that serve the near poor, moderate income, and middle-income individuals and families. Both communities could learn from each other to the benefit of both.

## **Introduction**

This paper explores the potential for private practitioners to serve what has been called the “latent market for legal services,” by utilizing Internet technologies to offer legal services at lower fees; the opportunities for cooperation and collaboration between the legal services and the private “personal legal services bar”; recent efforts by the American Bar Association to strengthen the capacity of lawyers to serve this market sector; and, the potential for providing legal services over the Internet to low income individuals and families. A brief description of a virtual law firm project that experiments in delivering “unbundled or limited legal services” over the Internet is also presented.

### **Latent Legal Market Opportunities for Lawyers**

The unmet legal needs of consumers are well documented and dramatic. In 1994, the American Bar Association published *Findings of the Comprehensive Legal Needs Study*. The study surveyed low and moderate-income households to assess their legal needs and related solutions for 1992, the year prior to the data collection. Nearly half (46 percent) of moderate-income households reported having at least one legal need in the prior year. Less than half of those consumers (43 percent of those with a legal need and 22 percent of those overall) consulted a lawyer about their problem.<sup>5</sup>

According to this nationwide study, 39 percent of those from moderate-income households addressed their legal problems through the legal system, while approximately one-quarter (23 percent) addressed the problem on their own and another quarter (26 percent) reported taking no action.

See generally, *Improving the Delivery of Affordable Legal Services Through the Internet: A Blueprint for the Shift to a Digital Paradigm* by William Hornsby at <http://www.abanet.org/legalservices/delivery/deltech.html>

An increasing number of moderate and middle income individuals are turning to self-help law books, self-help software, independent paralegals, and web-based legal services to solve their legal problems.

The ABA’s own research has documented the fact that persons of moderate income are finding solutions to their legal problems outside the legal profession at a growing rate for a variety of reasons, including the price of legal services.

Richard Susskind first recognized this pent-up demand for legal services as the “latent market for legal services” in his seminal book on *The Future of Law: Facing the Challenges of Information Technology*. [Clarendon Press. 1999, 1998]. Research has since documented that many people who would benefit by having a lawyer and could afford to hire one avoid doing so. The key reasons are: 1) fear of high and uncontrollable legal fees; 2) dislike of hourly rates; 3) fear of prolonging disputes; 4) the inconvenience; 5) the often emotionally draining experience of consulting an attorney; and 5) general mistrust of the legal profession. The ABA Study of Maricopa County found that the primary factor in the decision to proceed pro se was the belief that the legal task was not sufficiently complex to require the assistance of an attorney. The cost of representation was a secondary reason, even for those with annual household income up to \$50,000. [See Sales, et al. *Self-Representation in Divorce Cases: A Report Prepared for the ABA Standing Committee on the Delivery of Legal Services*, American Bar Association, 1993.]

Susskind postulates that individuals needing legal assistance will sub-optimize in the sense that they will seek a solution that is “good enough”; they will limit the amount they pay in legal fees and get on with their lives. In many instances individuals will substitute “legal information” for “legal services”, if the provision of legal information in and of itself will solve their problem quickly and at low cost. This idea is an explanation for the rise of *pro se* representation in family and

divorce matters and where parties seek lower cost alternatives than full service legal representation.

There are potentially a huge number of clients in this category of individuals who barely can afford the cost of legal services. It remains to be seen whether lawyers can learn to respond to this moderate or lower income class of consumers and their latent demand for legal services, or whether this segment of the market will be lost to the legal profession.

### **The Rise of Legal Information Companies on the Web**

Web sites such as completecase.com (divorce on-line) [ <http://www.completecase.com> ], legalzoom.com (wills, divorce, incorporations online) [ <http://www.legalzoom.com> ], docupro.net (divorces, bankruptcy, incorporations, wills) [ <http://www.docupro.net> ], freewills.com, [ <http://www.freewills.com> ] and our own web sites such The Divorce Law Information Center, [ <http://www.divorelawinfo.com> ], the Name Change Law Center, [ <http://www.namechangelaw.com> ] and Wills On-Line[ <http://www.wills-online.com> ] are experiencing a relative boom in business at the expense of solo practitioners and small law firms.

I manage a private company known as [MyLawyer.com, Inc.](http://www.mylawyer.com), [ <http://www.mylawyer.com> ] based in Baltimore, Maryland, that has developed more than a dozen specialized legal information web sites offering document and legal information services that range from no-fault divorce to name change to landlord/tenant forms, wills, powers of attorney, living wills, and consumer complaint forms. From a slow start in 1997, our US sales volume has increased every month so that today our sites generate healthy revenues with further growth in site. Our revenue from our US legal information web sites experienced a 100% increase this year over last year.

Our own experience in serving hundreds of customers every week who are seeking no-fault divorce or pursuing other family law actions supports the hypothesis that what people want, particularly if they are moderate or moderate-middle income, is problem resolution at the lowest possible cost.

We do not directly provide legal advice, as we do not operate as a law firm. We do however provide extensive legal information by email and in this way service hundreds of customers a week – much more than the average solo practitioner serves in several years of traditional private practice.

The negative attitudes of our customers towards the legal profession, the positive feedback that we receive for providing a low cost solution, and our continued growth, suggests that there is a latent market for legal services and that we are serving in an effective, although limited way. I attribute this to the fact that the legal profession has not figured out how to connect with the large group of moderate-income consumers using the Internet.

In the last 24 months we have witnessed literally dozens if not hundreds of non-lawyer, legal information and form web sites emerge on the Web focusing in almost every legal specialty. Providing forms for no-fault divorce in every state has become a big business if the number of sites advertising on Goggle, Overture, and Yahoo is any indication.

The chart which follows indicates the scope and nature of the offerings of the leading non-lawyer divorce forms sites – which is only one specialty area served by these emerging legal information web sites.

Features and Benefits	Massachusetts Divorce On-Line	Complete Case	LegalZoom	SelfDivorce		Docupro.net	Rapidlaw.net
	Divorce: <b>\$49.95</b> Marital Separation Agreement: <b>\$39.95</b> <b>Combined Package: \$89.95</b>  <b>Generate complete and accurate forms instantly from within your web browser and export to Word or .RTF format.</b>  <b>Why pay more?</b>	\$249.00  <b>Off-line document assembly. You can't see your documents until you pay and receive.</b>  <b>Your documents are available immediately after completion, or they will be available to review online within approximately 24 hours or less</b>	\$249.00 without children \$299.00 with children Marital Separation Agreement Included  <b>Off-line document assembly. You can't see your documents until you pay and receive.</b>	\$99.00- <b>Generates forms with web browser marking on each form. Not compatible with Word or RTF.</b>	\$45.00 Forms-Only- Word, .PDF (non-fillable), RTF, and Paper format.	Divorce Without Children \$167.00 Divorce With Children \$207.00  <b>Off-line document assembly. You can't see your documents until you pay and receive.</b>	<b>Divorce with or without children, includes Marital Settlement Agreement \$249.00</b>
State-Specific--prepared by experts	Yes	Yes	Yes	Claims	Yes	Claims	Claims
Guarantee	<b>100% No ifs, ands, or buts.</b>	Limited	Limited	Limited	Limited	Limited	Limited
Fully Automated or or Just Web Forms to Collect Data	<b>Fully Automated patent-pending Web-Based Document Assembly System</b>	Fully Automated  <b>You can't see your documents until you pay and receive</b>	Web Form  <b>Off-line document assembly. You can't see your documents until you pay and receive.</b>	Web Form <b>Generates forms with web browser marking on each form. Not compatible with Word or RTF.</b>	Web Form	Web Form  <b>Off-line document assembly. You can't see your documents until you pay and receive.</b>	<b>Web Form</b>  <b>Off-line document assembly. You can't see your documents until you pay and receive.</b>

<b>How Long Before You Receive Your Documents</b>	<b>Immediately.</b>	<b>Your documents are available immediately after completion,</b> or they will be available to review online within approximately 24 hours or less	7-10 Days	Immediately for forms service, Document Preparation Service not available.	One Day or 48 Hours	7-10 days	24-48 hours
<b>Professional Review</b>	<b>No</b>	Yes, whatever that means. Site is not a law firm and can't provide legal advice.	Yes, whatever that means. Site is not a law firm and can't provide legal advice.	No	Claims	No	Yes, whatever that means.
<b>Complies With American Bar Association Best Practice Guidelines</b>	<b>Yes</b>	No	No	No	No	No	No
<b>Attorney Owned and Operated</b>	<b>Yes</b>	Yes	No	No	No	No	No
<b>Personal and Secure Home Page With Tools to Help You Pursue and File Your Divorce</b>	<b>Yes</b>	Yes	Yes	No	No	No	No
<b>Technical Assistance by EMAIL or phone</b>	<b>Yes, both phone and e-mail.</b>	Yes, as well as by phone and via live chat.	No	No	No	No	No
<b>File Format Available</b>	<b>Exports to Word or PDF. or documents can be printed from within Rapidocs</b>	PDF, Word, or Paper for no additional fee.	Word, or .RTF	HTML Only- Browser Markings appear on legal documents and do not look like an	Word, WordPerfect, Adobe.PDF or Paper	Word or Paper	Word or Paper Format

	application.			official filing.			
Contextual Help	Yes	Yes	No	Yes	No	No	No
Extensive Divorce Legal Information	Yes	Yes	No	No	No	No	No
Child Support Calculator	Yes	Yes	No	No	No	No	No
Legal Advice Available Through Nationwide Network of Law Firms for a Modest Fee on an Unbundled Basis	Yes	Yes	No	No	No	No	No

In the interest of full disclosure, I should identify that the first column in the chart contains information on our Massachusetts divorce web site at <http://www.madivorceonline.com>. All of the other web sites in the chart offer the same product that we do, but at a much higher price point, ranging up to **\$249.00** for a no-fault divorce with children, for example. That is a lot of money for standardized forms without any legal advice included.

Some of these sites imply that they undertake a “professional review” of the customer’s legal forms before they sent out to the client –what ever that means—since none of these web sites is authorized to provide legal advice of any kind.

Obviously this kind of activity has implications for solo practitioner and small law firms. For every divorce that is processed through one of these sites is one less divorce for the legal profession. In addition to these commercial sites, courts sites and legal information web sites compete with the small law firm sector of the legal profession by offering legal information, legal forms, and detailed instructions to the general public. Over time and on a cumulative basis these web-based legal information services will, I predict, have a major impact of the economics of small law firm practices in certain specialty areas, unless these firms learn a new way of helping people solve their legal problems.

## **American Bar Association Responses**

The leadership of the American Bar Association has been slow to respond to these developments on the Internet. With ABA leadership dominated by partners from large corporate law firms, the Association has, until most recently, all but abandoned the solo and small firm practitioner. The percentage of solos and small law firm partners who are members of the ABA has been declining for some years and most solos and small law firm partners do not even belong to the ABA. If they belong to a bar association at all, it is most likely to be a state bar association.

Although the American Bar Association has been a long term supporter of funding for the Legal Services Corporation and funding for legal aid, and a great supporter of “pro bono” efforts, there has been less focus on helping smaller law firms serve the moderate income clientele and the lower middle class.

More recently, the ABA under the leadership of the Office of the President has focused efforts on enabling lawyers to serve individuals and families of moderate income, a group not served by the US legal services program because of income ineligibility. In theory, solo practitioners and small law firms should be the supplier of legal services to people of moderate income, but the reality is that most of these lawyers have targeted their practices towards the upper middle class because of a greater ability to pay.

## **ELawyering Task Force/Law Practice Management Section/ABA**

In 1999, the American Bar Association, under the leadership of President William Paul, created the ELawyering Task Force, of which I am Co-Chair, to act as a focus for connecting lawyers to the “latent market for legal services” by using technology, particularly Internet technology. The Task Force made a series of recommendations to state bars, the profession in general, to law schools, and courts about the need for helping lawyers to use technology to deliver legal services more effectively. A web site was created at: <http://www.elawyering.org/> to function as an information resource to the profession on these concepts. The web site is maintained by volunteers. New plans this year involve offering continuing legal education in Internet technology for law firms over the web, as a cost effective method of information dissemination about these new concepts. The plan is to make these “webinars” self-financing and revenue generating for the LPM Section. The first “webinars” are planned for this fall, after a year of planning.

These educational efforts cannot come to soon. In fact, there has been little movement by law firms to actually deliver legal services over the Internet. Web sites for almost all law firms, with some notable exceptions, remain little more than electronic brochures and do not change the way legal services are actually delivered in any significant way. The two large law firm directory companies, West/Findlaw and Lexis/Lawyers.com/Martindale-Hubell, that develop web sites for law firms create brochure ware web sites that are little more than expanded yellow pages ads. Most law firms that buy into these advertising and marketing approaches believe that this is an effective way to market to clients, but the sites that are getting the most business are the non-lawyer legal information companies that really understand Internet marketing and the current economy, and the minority of law firms that have taken the time to create truly interactive, informative, and consumer oriented web sites.

## **ABA Task Force on the Developing a Model Definition of the Practice of Law**

ABA leadership, slowly becoming aware that there were non-lawyer entities taking business away from law firms, established this year a model definition of the practice of law, at the direction of A.P. Carlton, the President of the ABA, and the Task Force on the Model Definition of the Practice of Law. See generally, [http://www.abanet.org/cpr/model\\_def\\_home.html](http://www.abanet.org/cpr/model_def_home.html) .

In September, 2002 the Task Force released a draft definition that effectively would make the “unauthorized practice of law” almost any service delivery activity that relates to law and the legal

system including tax services offered by TurboTax, legal information web sites that offer document preparation services, legal software sold in Staples, independent paralegals that serve the public directly as in Florida and California, and all forms of legal advice if offered by a non-lawyer entity, and, as discussed more extensively below, legal information assistants employed by legal service programs to help low income clients navigate the Web.

In hearings at this year's ABA Mid Year Meeting in Seattle, 19 speakers testified, almost all of whom opposed the new proposed definition. [See comments from speakers on the proposed definition at: [http://www.abanet.org/cpr/model-def/draft\\_def\\_comment.html](http://www.abanet.org/cpr/model-def/draft_def_comment.html)]. For some reason there was no representative from the legal services community to express its collective viewpoint or interest, as if these activities would have no relevance to technology initiatives now unfolding within in the legal services community.

These hearings followed an earlier set of hearings convened by the Federal Trade Commission on possible anti-competitive effects to restrict competition on the Internet. [See generally, <http://www.ftc.gov/opp/ecommerce/anticompetitive/> ]. The legal services community was also unrepresented at these hearings.

The FTC hearings resulted in a formal letter from the Federal Trade Commission and the Department of Justice advising the American Bar Association not to issue the proposed definition of the practice of law because of its anticompetitive effects. [See generally, *Federal Trade Commission and Department of Justice Provide Comments on American Bar Association Proposed Model State Law defining the Practice of Law* at: <http://www.ftc.gov/opa/2002/12/lettertoaba.htm> ]. The letter was backed up by FTC testimony at the ABA Mid-Year Meeting opposing the publication of a model definition of the practice of law.

The opposition from the U.S, Federal Trade Commission and the U.S. Department of Justice, assorted interest groups from the National Federation of Paralegals, various other divisions and other committees of the ABA, and commercial interests such as non-lawyer title closing companies, has resulted in forcing the ABA to back down on its efforts to promulgate a model definition. The effort by the ABA to promulgate a Model Definition has all but been abandoned to the states.

The final set of recommendations simply suggested that each state “should determine who might provide services that are included within the jurisdiction’s definition of the practice of law and under what circumstances based upon the potential harm and benefit to the public. The determination should include consideration of minimum qualifications, competence and accountability.”

The Report also recommended “each jurisdiction should include the basic premise that the practice of law is the application of legal principles and judgment to the circumstance or objectives of another person or entity”. [For the full report see, [http://www.abanet.org/cpr/model-def/taskforce\\_rpt\\_328.pdf](http://www.abanet.org/cpr/model-def/taskforce_rpt_328.pdf) ].

In contrast to the ABA position, a number of witnesses who testified made the argument that there should be a more open system that encouraged consumer choice. It was argued, that if a person was a graduate of an ABA accredited law school, and admitted to practice law in the state, they could hold themselves out as an “attorney.” If they did not have these credentials, it would be consumer fraud for a person to claim they were a licensed attorney, but they could represent themselves as an independent paralegal, legal information assistant, title closer, or whatever title they wanted as long as they did not claim to be an “attorney licensed to practice law.” This opinion was shared by the US Federal Trade Commission and the Department of Justice and would pave the way for increased consumer choice and competition with the legal profession.

By endorsing a federalist approach, the ABA is encouraging each state to craft its own definition of the practice of law. Because state bar associations are likely to move slowly on this issue, there is bound to be continued confusion among lawyers who want to undertake creative activities on the Net through their law firms, but because of a lack of clarity regarding state regulations will do nothing. While they are doing nothing, non-law firm entities will continue to erode the market share of solos and small law firms.

Legal Services organizations, as discussed further in the section, have an interest in making sure that non-lawyer paraprofessionals are not over-regulated out of existence. In my opinion, the result will be to choke off any Internet usage by the low income community as discussed below.

### **Legal Services Programs, the “unauthorized practice of law” and the Internet.**

First, some background. In 1996, I established on the Net, with the assistance of the University of Maryland School of Law and financial assistance from the Abell Foundation, what became known as The People’s Law Library of Maryland at <http://www.peoples-law.com>. The People’s Law Library was one of the first legal information web sites to provide legal information directly to consumers. While my intent was to create a resource that could be used by the low income community to access the legal system more cost effectively, it soon became apparent from our consumer research that our users were squarely within the broad middle class. Early adopters, such as the “software engineer” from Rockville, Maryland, were highly literate, educated, and Internet-savvy user. In the early days of the Web this was not unexpected. We were able to collect zip code information from early users, which yielded invaluable data on the profile of this population. It became obvious, at least to me, that this Internet resource would not be relevant to the low-income community because of lack of access to the Internet, lack of literacy, and lack of skills in knowing how to use a web site. At least in the short term it would be the middle classes that would benefit the most from free law on the web.

Since at the time (1996-97) the University of Maryland Law School viewed the Internet as irrelevant to the institution’s educational goals and somewhat irrelevant to the future practice of law, I decided to move on to establish the commercial venture that I still operate today. Armed with the insights from the zip code data for our research efforts, I was able to successfully target and market our legal information web sites to the broad middle class in Maryland and nationwide.

Subsequently, the People’s Law Library received additional funding from the Soros Foundation and has become part of the Maryland Legal Assistance Network, a unit of the Maryland Legal Services Corporation, where it thrives today.

The Legal Services Corporation moved in the same policy direction and as everyone here knows, has invested substantial sums in developing state-wide legal information web sites, and other digital legal applications, on the order of the People’s Law Library, such as the Law Help.org web sites.

These LSC innovations include among others:

- The creation of content rich statewide legal information web sites;
- Technological support of pro se litigants, including the availability of document assembly tools over the Web; and
- The creation of digital applications that can substitute for the labor of a high cost lawyer.

My own view, for which there has been no research or evaluation efforts to contradict this opinion, is that the development of a legal information delivery system by the Legal Services Corporation

over the Internet has not had any direct impact on increasing the capacity of low income individuals to access the legal system.

It is well recognized that the low-income community, without the assistance of a paraprofessional mediating force, will have problems taking advantage of new web-based technology because of:

- Limited access to computers;
- Limited literacy and the textual nature of today's computer interfaces;
- Limited broad band availability which in turns limits the use of animation and visualization needed to make more complex legal concepts and procedures understandable to a less literate population;
- Lack of English proficiency among the low-income population;
- Lack of sufficient knowledge of how to use web-based technologies.

In a nation where research shows that 90 million Americans can barely complete a complex form, it is unrealistic to think that low-income clients will be able to represent themselves, follow procedures, and understand the law, without some additional assistance beyond what is available on the Web itself

Moreover, it is becoming apparent that the obstacles listed above can be overcome if it is recognized that the person who is empowered by these information technologies is a paralegal, or legal information specialist, rather than the client. A paralegal or legal information specialist, that has access to Internet legal resources can be an effective agent enabling access to the legal system for the low-income client.

There is no hard evidence that any low income clients in significant numbers are served directly by web technologies, and it is my own personal experience, that direct interaction with web technologies is unlikely to happen without the support of another human who mediates between the low income client and the Internet technology. This disconnect between client and system accounts for the success of independent paralegals and resources on the Net, and document preparation forms on the net, where the income person has access to additional assistance. These are the same entities that the ABA wants the states to either over-regulate to the point of extinction or put out of business entirely.

For the immediate present, the success of Legal Service Corporation efforts to deliver legal information services over the Net is largely dependent on a mediating work force of non-lawyer assistants who can help the low income client effectively use Internet resources. This could include the smart teenager who is computer literate in the home as well as the community information worker who can staff a kiosk in the local church or community center.

However, all of these efforts would be hampered by the ABA, and potentially local state bars to over-regulate non-lawyer legal services providers of any kind in the interest of protecting the public. The real objective should be to develop innovative means of protecting the shrinking market share of solos and smaller law firms.

In my opinion, the US legal services community should put aside its bias towards lawyer-dominated legal service delivery systems and oppose the ABA's Model Definition of the Practice of Law effort on the grounds that it restricts consumer access to the legal system by attempting to eliminate an already burgeoning and robust alternatives to traditional legal services delivery by attorneys. . If the Internet strategy that LSC is supporting is to work, there needs to be

unrestricted access by clients to a non-lawyer work force that can provide the bridge between the client and the technology.

### **The ABA Presidential Commission on Access to Lawyers**

A more promising development is very recent efforts by the ABA to stimulate activity at both the national level and the state level to help lawyers serve more effectively the “latent market for legal services.”

President A.P. Carlton also established this year, the *ABA Presidential Commission on Access to Lawyers*, with responsibility for examining and developing approaches for connecting lawyers to clients of moderate and even middle income. The Commission hasn’t yet reported its recommendations but its preliminary report endorses such ideas and strategies as:

“Recognition that if clients “partner” with a lawyer to share tasks necessary to resolve a legal problem, the client can invest time instead of money. This approach to unbundled legal services can then broaden the lawyers’ base of clients who are willing to adopt this model. Also, the improved use of technology, such as automated intake, document assembly, electronic filing, can create efficiencies that allow lawyers to complete tasks more quickly and at less expense.”

“That the organized bar should examine policies, such as rules of ethics, rules of procedure and statutes to determine their impact on the ability to provide personal legal services cost-effectively.”

“The ABA should lead the profession toward the philosophy that meeting the legal needs of individuals should have no less status within the profession than meeting the needs of corporate and institutional interests.”

It remains to be seen how many of the Commission’s Recommendations will be accepted by the House of Delegates of the ABA at its August meeting.

### **The Standing Committee on the Delivery of Legal Services**

On another ABA front, the *Standing Committee on the Delivery of Legal Services* has historically been concerned with developing approaches for the delivery of legal services to people of moderate means. Last August, at the ABA National Meeting, the Legal Services Committee held public hearings on obstacles to accessing justice, and called for recommendations on how to overcome obstacles, from individuals invited to testify. A summary of the recommendations of the people testifying will soon be published. A consistent theme that echoed among a number of speakers testifying is that we should have a more diverse system of legal service providers. As one speaker argued, when you have a headache you take an aspirin, you don’t go to a brain surgeon. The analogy is that not every legal problem requires a lawyer in the first instance, and that we should have a wide variety of choices to address the different levels of legal problem complexity.

Other work of the Committee is “the blue print” project, whose purpose is to identify promising models, document their success, and then disseminate the results in the form of “service blue prints” that law firms and other organizations can replicate in their communities. [See generally, <http://www.abanet.org/legalservices/delivery/delmodesthelp.html>].

The Committee also sponsors the Louis M. Brown Award annually, which recognized exemplary models for delivering legal services to their moderate-income community. Two years ago, an Iowa law firm that provides Wills over the Internet to its clients received recognition. See generally, [<http://www.abanet.org/legalservices/delivery/brown.html>].

The Committee worked jointly with the [eLawyering Task Force](http://www.elawyering.org) [http://www.elawyering.org ] of the Law Practice Management Section of the ABA to develop a set off “Best Practice Guidelines for Legal Information Web Sites.” The idea behind the guidelines is to improve the quality of legal information delivered through non-lawyer web sites and to help consumers become more informed about the accuracy and validity of the legal information that they were consuming at these web sites. The Guidelines were based upon similar guidelines published in the UK and Australia. The American Bar Association of House of Delegates at the mid-year meeting approved the Guidelines. [See guidelines at: <http://www.elawyering.org/tools/practices.shtml>].

### **“Unbundled” or Limited Legal Services**

As consumers have migrated toward self-help, lawyers have begun to adapt the traditional full-service model to a model of delivering limited legal service, known also as “unbundled legal services or discrete task representation.” Consumers are offered a consumer driven menu from which they can select a range of limited legal services including legal advice, legal form preparation, and court coaching. Advocates of unbundling also argue that consumer’s benefit by having more control over their legal matters.

Throughout the current year, the Committee has been working with the *Litigation Section’s Task Force on Unbundled Legal Services*, serving as a resource, as it designs a practitioner’s guide and directory. This practitioner’s guide, is likely to have an impact on state bar associations and courts, as well as attorneys, who are searching for new ways to deliver legal services at reduced fee levels to people of moderate income without sacrificing core professional values. The release of this report with the backing of the Litigation Section is bound to have an impact on the culture and willingness of lawyers to offer limited legal services as a way of reaching parts of the population who are presently underserved.

### **Legal Service Programs, the Private Bar, and Unbundled Legal Services**

Much of the work of these task forces looks very promising as a way to expand the reach of the profession to serve people of moderate means. Some of the approaches being developed by legal services agencies in the US may in fact have more relevance for how lawyers can serve the broad middle class than low-income individuals.

In my opinion, the programs that LSC, and to some extent state-based IOLTA funds, have been supporting in the Internet technology arena, have great relevance to solos and practitioners and small firms who want to extend the reach of their practice to serve people of moderate means. Telephone-based legal advice, automated document assembly, content rich web sites, frequently asked questions data bases, standardized legal forms, and digital legal applications, (see the [Digital Legal Applications Center](http://www.granat.com), <http://www.granat.com> for a discussion of the concept of digital legal applications and smart legal web sites) are all innovations that are happening within the legal services program sector that could be exported to the practices of the solos or small law firm practitioner.

The employment of digital strategies should generate greater efficiencies that reduce the cost of personal legal services making them more widely available to persons of moderate income and as well as to low income clients with the assistance of the aforementioned paralegal or legal information assistant work force.

In my opinion, legal services agencies should figure out ways to extend their technologies to solos and small law firms in return for those firms assuming referrals for clients who are not eligible for the legal service programs services. This is only fair, since the Legal Service Program, has never been charged with eroding the market share of the small law firm sector of the legal profession, which is a consequence of its efforts to provide access to law over the Internet to not only low-income families, but any one who has an Internet connection. I doubt that this is what Congress intended when it provided funds for the TIG grants program.

Methods should be developed by state and local legal service agencies to channel (ineligible) moderate income clients from low income legal services providers and from corporate-focused legal service providers to those lawyers who are willing and able to serve this population.

### **Delivery of “Unbundled Legal Services” by the Private Practitioners Over the Internet**

Arguably, clients are better off being served by a law firm that complies with core professional values, than by a web-based document preparation service for many obvious reasons. The web-based company cannot give legal advice. Adherence to core professional values, such as confidentiality, conflict of interests checking, competence, and accountability, are not required. Almost all of these non-lawyer legal information web sites do not comply with the recently approved “Best Practice Guidelines for Legal Information Providers,” mentioned above.

However, the challenge of the solo or small law firm is to offer their services at a price point, which is close to the prices offered by web-based document preparation firms

I believe that the only way that the legal profession can meet the needs of the moderate and middle income clients is to more extensively use digital technology to re-engineer their law practices by developing efficient web-based delivery systems.

A virtual law practice offering limited legal services over the Internet would have the following consumer benefits and economic advantages:

- Convenience
- Speed
- Lower over head
- Commerce systems that encourage cash payment reducing collection problems and increasing cash flow.
- The potential for communication by email, rather than communication in real time. Costs are much higher for a lawyer if he or she has to be available during prime time to talk to a client on a face-to-face basis or even by telephone. If the lawyer is able to communicate with the client by email during marginal time the lawyer is able to leverage ordinarily unbillable time therefore allowing services at a reduced cost.
- Reduced costs created by enabling the client to do part of their work by generating their own legal documents using web-enabled document assembly systems. The lawyer still reviews the documents and may re-draft as necessary, but the client does the basic work. Self-help, as demonstrated in other industries, is a powerful reducer of costs.
- Clients may also do their own research and other tasks, with the assistance of the attorney, such as appearance in routine court hearings that save on lawyer time and legal fees.
- More efficient marketing by aggregating clients over a larger geographic base through application of Internet marketing principles.

By experimenting with new approaches, more “clients” would get what they believe they need at a price they can afford. We should regard this as a positive development and the right thing to do.

## **Maryland Family Lawyer: A Brief Case Study of a Web-Enabled Law Firm Delivering Limited Legal Services**

I have been interested in testing some of these ideas of enabling the legal profession to serve a lower income clientele for some time. For the past five years I have concentrated my efforts on developing the network of legal information web sites discussed earlier in this paper that compete with solos and smaller law firms. We have done very well financially with our legal information web sites.

However, because I am personally challenged by the need to demonstrate that lawyers can serve the latent market of legal services and not only do good but do well at the same time, I launched last month in the State of Maryland, where I am a member of the bar, the <http://www.mdfamilylawyer.com/> web site.

My goal was to see if I could offer more value added services than a web-based document preparation firm at the same levels of pricing.

This “virtual law firm” is built on the architecture and tools described above.

We offer “limited legal services”, partnering with our clients to reduce costs.

- Each client is assigned a personal home page, where he can communicate securely. The client’s “My Legal Affairs Page” enables him client to check on the progress of his case, collect legal links and legal resources that are relevant to the client’s case need, purchase and assemble documents, and purchase legal advice.
- The practice is limited to family law, so that we are very efficient with the fewer tasks that we undertake.
- We use an advanced web based document assembly system to reduce the time it takes to automate documents to seconds, rather than minutes or hours. The client does most of the work in assembling his or her own documents. This frees the attorney to provide more diagnostic and substantive assistance.
- We provide a great deal of Maryland specific family law information so that the client can learn about his problem on his own
- We provide legal advice by telephone and email by the incident. If a client purchases a document, legal advice is included for the same flat fee.
- We do not meet with clients face-to-face.
- We do not maintain a physical office. I run the firm out of the home office.
- My malpractice premiums are very low because we offer limited legal services.

How successful has this model proved to be? It is successful in the sense that our projected volume exceeds our early projections. I expect that as our brand becomes stronger and the search engines find our site, our volume will continue to increase and that we will provide a new alternative in the Maryland legal marketplace. To be sure, our practice is very different than full service litigation oriented divorce law firm, however this was never my particular professional goal.

If you want to see how the firm is presented you can review some of the web pages that have been reproduced Appendix B.

For a more intensive review, go to: <http://www.mdfamilylawyer.com> and sign as a client by using user name: “guest” in lower case; “password” in lower case for password.

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I believe that virtual law firms like the model presented here will continue to proliferate on the web and provide not only a valuable alternative to non-lawyer legal form sites, but an alternative career path for those who are looking to combine a law career serving those in need with a flexible life style. I believe that this is one path towards enabling people of moderate means to gain access to the legal system.

**Appendix B**

Web Pages from <http://www.mdfamilylawyer.com>