

## **“This Isn't Your Father's Law Firm”—But Maybe It Should Be**

By Victor J. Medina

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Are you ready for a practical alternative to the “legal services as commodities” trend? Here’s an approach that builds a longtime client family.

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Much of the discussion about the power of technology, as it relates to the practice of law, has centered on the advent of virtual law practices and the unbundling of legal services. And, although many attorneys (myself included) have opined that this is the worst thing that can happen to the practice of law, few have proposed a practical alternative that will appeal to lawyers and consumers alike.

I want to use this opportunity to discuss my nontraditional (but, really, traditional) approach to creating residual income and at the same time suggest an alternative to the “legal services as commodities” trend that is sucking the satisfaction (and the profit) out of the practice of law.

Although I focus my discussion around consumer-based practices (specifically, estate planning), these principles can be extended to other practice areas.

### ***Counseling versus Commoditization***

Even before the Internet, there was a steady trend toward the commoditization of legal services, answered by a matching trend toward specialization. Lawyers turned to specialization to create a market advantage for their services while, in turn, the marketplace demanded a more transactional-based relationship wherein clients just paid for a very narrow sliver of services within the attorney’s field of expertise. An unfortunate by-product of this trend was that lawyers began charging higher fees for their specialized services, and clients began resenting being gouged for having such an expensive “expert” attorney. This led to clients requesting fewer services, which led to lawyers resenting clients looking to chisel down the fee. And so the vicious cycle continues.

As technology advances, lawyers are finding that they can provide services that clients want, and will pay for, from a farther distance than ever before. Engaged in a virtual law firm model, clients submit requests across the Web to a lawyer, possibly in his or her pajamas, who fulfills the order and delivers the documents (or the service) to the client from afar—or at least as far as is possible while being licensed in that particular state. As the services that lawyers offer and clients’ demands get more nuanced, the practice of law gets sliced thinner and thinner into its composite parts.

Why do so many lawyers feel this is the worst thing that could happen to our profession? Because it spells the end of the lawyer-as-counselor. The more the practice of law becomes commoditized, the easier it will be for the market to drive down the price of services—driving it low enough to stop being profitable for the lawyer. The terrible consequence is that it reduces attorneys to being scriveners or one-shot court appearance lawyers.

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It cuts against the grain of what traditional lawyering is. A lawyer's value is not just in the deliverables or the court appearance that he or she makes, but in the ability to think through a problem, to counsel a client, or to strategize alongside a client for the client's benefit. Sometimes that counsel doesn't take much time, or effort, if the attorney has enough experience in the field and with that problem. Other times the best job is done by starting down one path, only to learn, after research, that a course correction is required along the way.

Law firm marketing expert Mark Merenda poses a relevant question: "What is the value of a doctor's services?" he asks. "Is it the prescription he writes? Or his ability to correctly diagnose your illness and choose the correct remedy?"

If you agree that counseling is as much a part of lawyering as is drafting documents or making appearances, then you might be ready to accept a practice model that focuses on those counseling services in a way that provides your practice with stability and longevity. You're also likely to find more satisfaction in your work.

I went to school with the hope that I could serve as a trusted counselor in the lives of my clients. I did not want to sell and carry out transactions. I wanted to remain in my clients' lives, and more pointedly, I sought clients who wanted me to remain active as an advisor in their lives.

My main practice area is estate planning, and when pressed, I call myself a private client attorney. I use that terminology because over the last five years, I've been building a client family, who engage me to be available to them for counsel whenever they need it and to attend to their annual legal needs. The cost of my services is relatively low, \$500 per year to start, and quite affordable by most of my clients.

If I've had any success, it's been in my ability to impress upon my clients (1) the need to have an annual legal audit (and to address potential problems early—when there are more options), and (2) the value in having a trusted advisor who can be their advocate and counsel whenever they need it. I like to think that one of my strengths is analyzing situations and finding the best "through-line" to a solution. My focus has been on finding clients who value that skill and who believe I'm the best fit for their lives.

This isn't a novel concept. Businesses large and small have kept lawyers on retainer in a similar fashion and the ultra-wealthy have had private attorneys for their family as a regular course—mostly on a full-time basis. My model simply offers these same services, at an optimal price, to a wider client base.

The biggest objection you'll hear from lawyers to this structure is that clients will take advantage of your counsel in a way that erodes profitability. That's certainly true if you don't choose your clients carefully, but I can tell you that I've never had a client abuse the service. To be sure, some clients have required my full attention in a way that, if I were billing hourly for my services, would have me working for pennies. However, as with an insurance company, those clients who don't need services at that time help pay for the time and effort I spend on the ones who do. As a safeguard, I limit the scope of this annual representation.

Besides the personal satisfaction that this system brings, there is a sound business reason for building this kind of practice—stability. Law is different from other professional services, like accountancy or

financial advisement. Those industries are built on an approach in which revenue grows over time with residual income. Most accountants will tell you that they can absolutely count on at least 80 percent of last year's clients coming back this year to engage them. This makes it very easy to plan for the future. Lawyers, by comparison, start each year having to earn every single dollar and every client from a fresh slate. With few exceptions, lawyers cannot count on the clients of last year being clients for this year.

The model I propose turns that reality on its head. In its place, you begin building a practice that has a guaranteed income from year to year. (Our retention rate is north of 90 percent.) Rather than recurring pressure to get new clients in the door year in and year out, you can put more of your focus on delighting a client base that is already in your camp.

Don't get me wrong. The lifeblood of most business enterprises is new business—and I don't expect to ever stop welcoming it. But the goal of this program is to have a client "family" of a few hundred who will stay with me during the life of my practice. Although the notion is not new, few attorneys are doing it or have embraced its value, so there is little competition for clients who crave this kind of relationship.

I've found that certain clients are hungry for the type of old-school, Main Street Lawyer legal counseling found only in black-and-white movies—or in a well-established relationship with a trusted advisor. The challenge is to make the arrangement cost-effective for the lawyer and the client. One way to explain the advantages of this approach to your clients is to point out that the guaranteed income stream this model produces allows both you and your clients some confidence that your law firm will be around to deliver on your promise of a lifetime relationship.

There are some administrative challenges to putting a practice like this in place. However, any obstacles are easy to overcome with diligent planning for the staff—and the benefit of doing so is immense.

One of the other legs to my practice has to do with future-based incentive agreements with my clients in which I promise a lower-than-market rate for estate administration for members of my client family. (This area is specific to estate planning, but see if you can't extrapolate the concepts into your practice area.)

Saying it a different way, I've traded the model where I get few, big returns on my investment for one where I get many, small(er) returns on my investment. The power of this approach is that the annual membership program is as vital to the client's receiving the full benefit of my future promise as it is to me. Clients' annual dues help ensure that their loved ones will pay a fractional rate for settlement, which will result in an overall *lower* cost paid by the clients for their estate plans start-to-finish because it contributes to the attorney's cash flow and helps keep the lights on and the doors open.

### ***The Unique Long-Term Connection***

On the one hand, this approach is a radical departure from the traditional model of practice. Most lawyers are consumed with achieving their immediate revenue goals, and the idea of structuring a practice for the future like this will seem foreign. However, everything old is new again and this approach has worked in the past because of the strong personal connection it fosters. It is similar to a

private client practice with wealthy families, except the clients don't have the same financial resources (or financial commitments to the attorney) and there are more of them.

Yes, it takes a longer time to build a practice with this approach. However, I believe that you can create a more secure future and one that ultimately satisfies you more. With this approach, you focus on the counseling aspects of law more than the scrivener duties of document creation. There is an additional advantage to this model. Because it's difficult to shop these services on price and one attorney's counseling is quite different from another, you are offering a unique product—one that cannot be commoditized. Perhaps the biggest challenge is finding the right clients—clients who see the value of this kind of long-term attorney-client relationship—but trust me, they're out there and they're as hungry for it as you are.

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## About the Author

**Victor J. Medina** is the lead attorney-counselor for the Medina Law Group, LLC ([www.jerseyestateplanning.com](http://www.jerseyestateplanning.com)), a private client firm in Pennington, NJ. He is passionate about his practice, his family, his new iPhone 4 and the Red Sox—the order depends on the day.

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