

TO BOLDLY

Outsourcing Virtual



GO . . . to Paralegals

Full disclosure, I'm a Trekkie. So, you may ask, what does that have to do with outsourcing in the 21st century?

Well, just about everything. Look around your workspace, what do you see? Devices and gizmos whose creation was undoubtedly influenced by the *Star Trek* series—flash drives, smartphones, Bluetooth, tablets, computers, Skype, GPS, voice recognition apps, wikis, and so much more. The mobile nature of technology has made it possible for legal professionals to become more self-sufficient and less office-centric. It is technology that allows my imagination to transport me, if only for a nanosecond, light years away from my basement office to the bridge of the *Enterprise*. The portability of my 21st-century laptop, tablet, smartphone, and Bluetooth provides me with the same mobility and efficiency as a 24th-century Starfleet crew member—technology to effectively complete the job whether at my station or
Veer away on a mission.

By Pamela J. Starr

Although it's not quite holograms and holodecks (yet), the ever-adaptive legal industry continues to acclimate to working remotely. Attorneys can run effective practices without the restrictions and expenses of conventional office space or full-time, in-house support staff. When one considers the evolution of the practice of law, working virtually is, simply, logical. It is a world in which "bring your own device" (BYOD) is the norm and the paralegal down the hall may very well be on the other side of the continent.

And who is this paralegal? Whether in-office or virtual, he/she is often a fusion of Uhura and Scotty, with a dash of Kirk: a poised, professional, ethical, multi-tasking miracle-worker striving against seemingly impossible odds.

WHERE FEW PARALEGALS HAD GONE BEFORE

Many of today's virtual paralegals began their careers in Big Law or corporate America, never imagining they would become self-employed entrepreneurs, the owners of their own virtual paralegal companies. These 21st-century freelancers work remotely, linking to their clients via electronic media instead of coming into the office to collect projects. They are trained, certificated (and often certified), experienced paralegals who have taken their substantial skills out of bricks-and-mortar law offices, via the profusion of available technology, to deliver a cost-saving alternative for solos and small firms. These innovative individuals provide something their in-house counterparts don't: They are (virtually) available 24/7.

The legal profession continues to embrace and realize the value of working with and in the cloud. This technology makes it possible for Small Law to flourish and has created the perfect niche for enterprising paralegals to hang their virtual shingles and offer cost-effective support to the solos and small firms who understand and appreciate their value.

A PIECE OF THE ACTION

Attorneys want to maintain an image of professionalism, decrease their overhead, and increase the value of their billable

dollars. Solos and small firms need support to manage the practical side of their law practices—especially if their budgets cannot sustain full-time assistance. Their clients (rightfully) expect the same level of expertise and service as their Big Law counterparts, but without Big Law fees. In today's competitive marketplace, Small Law needs paralegal support to provide these services. Outsourcing allows solos and small firms to work directly with paralegals, on a transactional basis, without the burden of salaries and overhead or the limitations of regular business hours. Virtual paralegals offer attorneys a seam-

Outsourcing to paralegals can help solos compete with Big Law.

less, remote staffing alternative while maximizing the value of each billable hour. Realistically, attorneys just want to get back to the business of practicing law. Anyone in the industry will agree there are some tasks better handled by a paralegal and billed at a lower rate so attorneys can make better use of their time.

Not only are attorneys who outsource more productive, but they also realize higher revenues because they pay only for the work being done. Let's compare the cost of a full-time employee to a virtual paralegal. A full-time, salaried paralegal averages \$62,700 annually, which breaks down to about \$30 per hour. The employer, however, is on the hook for an additional 35 percent in taxes and benefits (paid lunches, overtime, personal leave, overhead, professional dues, and non-productive time) for a total budget expense of about \$84,600 per year. On the other hand, a savvy solo or small firm may need only ten hours of paralegal support over the course of each week. Assuming a flat rate of \$55 per hour for 52 weeks (520 hours total)

for virtual paralegal assistance—without the extra expenses associated with payroll taxes, insurance, benefits, overhead, and other hidden costs—the annual cost to the firm would be just \$28,600. This yields a relative savings of about \$56,000—almost the cost of the base salary of the full-time employee.

It's all about the bottom line. Technology merely provides new avenues by which paralegals may continue to provide exceptional, professional, and cost-effective services to attorneys in need. To maintain a competitive edge, attorneys must utilize all the tools in their technology tool kits, remembering that sometimes technology is embodied in an individual who can deploy it expertly on the attorney's behalf.

SELECTING YOUR AWAY TEAM

You must be clear about what you need and want for your practice. Are you looking for a virtual paralegal to fill in a gap, or are you really looking for someone to provide dedicated assistance to your practice? If you are considering a home-based paralegal to work solely for the benefit of your practice, then you may have a telecommuting employee on your payroll instead of an independent contractor.

That being said, always treat hiring a virtual paralegal the same way you would treat hiring someone to work in your physical space. This person will be acting on your behalf and under your supervision, so it's best to hire somebody with experience and established credentials. Keep in mind, there are many qualified paralegals just entering virtual practice who may not have established themselves as independent contractors but still bring experience and knowledge to the table. Certain legal specialties require unique skills and proficiency; however, there are some situations in which it makes just as much sense to hire a virtual paralegal with verifiable training that you can mold to your own specifications. In any case, the appropriate person is a qualified, experienced, well-trained, career paralegal who is the right match for you and your practice.

Ask questions, request references,

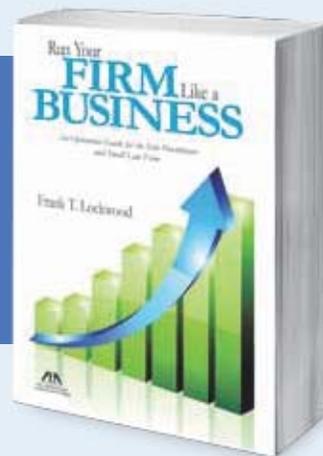
do your due diligence. An established virtual paralegal will have a visible web presence. Consider all the details: education, background, and experience, affiliations with professional associations. Confirm—and this is important—that the individual is indeed a credentialed paralegal (or legal assistant).

Reputable virtual paralegals will discuss, in detail, their fees, billing practices, availability/hours of operation, and respective expectations, and will provide you with a service agreement or contract that formalizes the terms of your business arrangement. The contract protects all parties. (You are an attorney, you already know that.) They will also have all the equipment necessary to do the job: phone, computer, printer, scanner/copier, external hard drive, secure Internet connection, licensed software (document processing, e-mail, financial tracking, specialty software related to their service offering, etc.), up-to-date antivirus software, and offsite back-up. Many have the ability to integrate with their clients' technology and securely transfer files and information. The luxury of working virtually is that virtual paralegals have remote access to their "offices" and/or can work anytime and anywhere.

Most paralegals, virtual or in-office, are college-educated professionals who may or may not have also completed a course of formal paralegal training; many have been certified by one or more of the nationally recognized paralegal associations; and a growing number are seeking secondary degrees. Generally speaking, there are no mandatory CLE requirements for paralegals, although truly dedicated paralegals do undertake such continuing education in order to be more valuable to attorneys. Like their in-office counterparts, virtual paralegals can provide their services to attorneys in every type of law practice, although many focus their services in the areas of Social Security, immigration, intellectual property, and bankruptcy simply because the federal system is the most conducive to the utilization of their skills. It might be true that a "chimpanzee and two trainees" can file documents electronically, but e-filing requires a special

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CERTIFIED OR CERTIFICATED?

Certified: Credentials issued by a certifying organization indicating a paralegal has successfully completed certain established requirements and passed a certification exam. The ABA does *not* certify paralegals.

Certificated: A degree or certificate of completion verifying that a student has successfully completed a paralegal educational program.

skill set and a certain level of patience in order to properly process, assemble, and submit the required documents in their proper sequence and under the correct event codes.

VIOLATIONS OF THE PRIME DIRECTIVE

Paralegals have certain limitations. The most important is that paralegals must not engage in the unauthorized practice of law. Although the definitions and comments regarding the unauthorized practice of law by non-lawyer assistants vary from state to state, the standard has been set by the ABA Model Guidelines for the Utilization of Paralegal Services (tinyurl.com/pv72p4u) and refers to Rule 5.5 of the ABA Model Rules of Professional Conduct (tinyurl.com/cxgb56u). In general, paralegals may not accept cases, set fees, give legal advice, plan strategy, make legal decisions, take depositions, or appear in court. Obviously, with respect to running their own businesses, virtual paralegals may set the fees they charge their attorney clients; they are, however, prohibited from setting fees for the attorney's clients.

One of the lesser-known benefits of working virtually, especially in terms of bankruptcy and other federal practices, is that a paralegal does not have the same jurisdictional restrictions as those imposed on attorneys. As long as a paralegal is working under the direct supervision of an attorney who is duly admitted to practice before the bar in the jurisdiction in which he or she is practicing, it does not matter where that paralegal is physically located. It is important for both the attorney and the virtual paralegal to know of, and adhere to, the rules of each jurisdiction. These issues and concerns continue to be addressed by the ABA Commission on Ethics 20/20 (tinyurl.com/3op6tx3) and are sure to be modified as technology changes the ways in which legal professionals work.

SHIELDS UP!

If nothing else, the controversy over snooping by the National Security Agency has reminded us that privacy, confidentiality, and security are always an issue. The vulnerabilities exposed by these recent disclosures make me long for our former “zinc-plated, vacuum-tubed culture.”

We know that technology makes it possible to work virtually, but it also makes it easier to inadvertently cross ethical lines. Virtual legal professionals have the same legal and ethical constraints as their bricks-and-mortar counterparts. In terms of all things Internet, web-based, or cloud, the reputable virtual paralegal will utilize firewalls, secure Internet connections, and encryption; institute security protocols for the storage and retention of paper and digital files; and implement backup and retrieval systems for file recovery.

Unless you can figure out how to get back to the time of stone knives and bear skins, we have to accept that communications are no longer inviolable. Consider the nature of the information being transmitted from client to attorney and attorney to paralegal, and so on. For instance, in bankruptcy matters, paralegals are often given access to a debtor's credit report, Social Security Number, and other forms of personal identifying information. For that reason, it is of paramount importance, not only for the paralegal's protection but also to protect client information, that the paralegal and attorney establish and enforce security policies and protocols.

In light of current revelations, the

opinion of the ABA Standing Committee on Ethics and Professional Responsibility regarding the “Duty to Protect the Confidentiality of E-mail Communications with One's Client” (tinyurl.com/mzhzrqs) has taken on a new dimension. Among other things, the opinion addresses concerns as to the risk of any third-party access to any online communication. Obviously, the legal and ethical obligation to protect client data applies to virtual paralegals as well as the attorneys to which the opinion was originally directed.

As with any form of legal practice, there are always concerns regarding conflicts of interest and jurisdiction. This becomes a more pronounced issue when working virtually with multiple clients in various jurisdictions. Most attorneys and law firms, as standard practice, have a process by which they evaluate new clients and matters for potential conflicts. The responsible virtual paralegal will have instituted similar processes. The ABA Commission on Ethics 20/20 has noted that when outsourcing, it is important to have systems “employ[ing] conflicts checking procedures . . . maintaining extensive databases for existing and former clients and screening the work history of new recruits and existing employees against both the information contained in the databases and information supplied by the client.”

YOUR ONGOING MISSION

As we look toward the second quarter of the new millennium, we recognize that technology will continue to influence how law is practiced. We operate in the midst of a technological universe of infinite diversity, with innumerable options to stock your technology tool box. Sometimes, however, the best tech in your arsenal is the person who knows how to implement technology on your behalf, helping you to boldly go where you have never gone before. ■

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