Client Portals: A Key Client Service and Information Security Tool

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> What is a web portal? In short, a web portal is a web-based platform that provides employees, customers and suppliers with a single access point to information. A web portal can be used to provide the user with personalized information such as employee training, safety manuals or a customer profile. A web portal can also be used to enhance the collaboration of information and improve the way employees, customers and suppliers interact with your business.
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> An online business portal can replicate the look and feel of your business and provide you with greater control over your day-to-day processes. Regardless of time or user location, a web portal can be accessed quickly and easily on a desktop or mobile device such as a smartphone or tablet.
>
> https://www.codelessplatforms.com/blog/what-is-a-web-portal/

Those paragraphs provide a nice definition of a web portal. I was not previously familiar with this website or this company, so this citation is not an endorsement.

Wikipedia defines the term client portal as "an electronic gateway to a collection of digital files, services, and information, accessible over the Internet through a web browser. The term is most often applied to a sharing mechanism between an organization and its clients." (https://en.wikipedia.org/wiki/Client_portal)

For a simple and clear outline of the features of a generic client portal, see Zoho's portal for small businesses. https://www.zoho.com/us/invoice/client-portal/ Note: I have included many links in this paper. But for those readers who are new to considering portals, I strongly encourage you to visit the Zoho portal page to better understand and review the basic features of a portal.

Lawyers, however, are usually not well-served to use an inexpensive generic portal software package. While there are certainly some business class tools appropriate to securely store and share documents, and I will point out a few in this program, programs designed with a law firm in mind will require much less customization and are generally the best choice, especially for solo and small firm lawyers without a dedicated in-house IT department.

But the threshold critical concern of a lawyer electronically sharing documents online is security of confidential client information. If, hypothetically, there was a breach of confidential client information and a lawyer was compelled to testify about the choice of portal software, the fact the lawyer selected the portal that was only $5.00 per month because other solutions were too expensive is not the strongest position.

CLIENT PORTALS SHOULD BE THE CORNERSTONE OF MOST LAW PRACTICES, NOT JUST VIRTUAL PRACTICES.

The pandemic changed many business operations, with videoconferencing and increased remote working being the two most obvious areas. It was easier than we might have anticipated for many law offices to accomplish most operations with much of the staff working from home. Lawyers who didn't know how to use a VPN or videoconference learned because they had to. Likewise, a large number of people all across the world learned a lot about technology in 2020 because they were forced to learn. People who rarely shopped online became quite adept. It seemed that everyone learned how to use Zoom for videoconferencing.

Now in 2021 many people are more open to the idea of shopping for and receiving different types of services online, including legal services.

Most legal services produce documents when concluded— real estate closing documents, judgments, contracts, franchise agreements, decrees of divorce, wills and trusts. These documents are delivered to the client at the conclusion of the matter. But there are also many documents generated during legal representation, including everything from litigation discovery documents to transaction negotiations. Frequently the client's input requires that the client review certain documents with their lawyer.

The main thrust of our program today can be covered in a few short paragraphs. Here is your [TL;DR] summary.

> **A fundamental question for lawyers going forward is: How do you securely share documents with your clients?**
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> **A small, and increasingly smaller, number of clients will still prefer to be served by US Postal Service mailings and personal meetings with the lawyer to receive documents. But the majority of both businesses and individuals now manage most of their documents digitally and will expect to receive digital documents.**
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> **Client portals are simply the best and most secure method to share documents in most cases. Email is too insecure a format to routinely use to share sensitive and confidential information. While most information related to a client representation should be**

treated as confidential, we must also appreciate that Internet wrongdoers are seeking personally identifiable information such as financial account numbers, credit card numbers, dates of birth associated with the names and the like. Recognizing those threats means that heightened attention must be paid to such personally identifiable information as well as other client "secrets."

Your law firm needs standardized business processes to operate efficiently. It is simply unworkable to make individual determinations about which documents are too sensitive to email and which can be emailed on a case-by-case basis. Build a secure system for sharing digital information and use it for all client communications and document sharing (except the few that have requested traditional mailing.) Portals also provide confirmation that a client has received and reviewed a particular document. Email can be used for short, non-sensitive matters such as scheduling and to alert the client something new has been placed in the portal.

The vast majority of smaller law firms without full-time IT staff should consider cloud-based practice management software solutions that include client portals as a part of the standard package. These online practice management solutions can provide *both* the organizational structure for law firms to manage their client documents internally and a simple method and secure method for the firm to share information with clients.

But there are literally dozens of reasons why, for many law firms, the subscription fees for a practice management software tool are one of the best investments that one can make pertaining to office organization. The fact that these organizational tools also provide secure client portals just makes them an even better bargain. While some clients will need training and assistance to use a client portal, that is a smaller number than a year ago. Clients will appreciate having one conduit where the information from the law firm is securely transmitted to them without it possibly being blocked by spam filters and or falling victim to other Internet-based insecurities.

See my 2016 column Email Attachments vs. Client Portals for a discussion of the insecurity of email if you need that background information.

From the column:

> We are all likely emailing too much sensitive personal information these days. Another state bar association once needed some tax information from me. Their email said to fill out the attached blank form and email it back to them. I did, but used an encryption method. Later I asked the person responsible for receiving the information if lawyers actually emailed back this information to her as a plain attachment without encryption. She said a lot of lawyers do, but then she added "but none of our legal technology speakers do." That's probably all you need to know about the security of email, isn't it?

As a lawyer who is discerning enough to attend this program, you already know better than to send your Social Security number out via unencrypted email. As noted above, many people do not know that. You want to make it easy on your clients to securely communicate with you. Your client portal should make it easy for clients to upload documents to you securely. Uploading documents to a client portal from the client side should be as simple as attaching something to an email after you have done it a few times.

PORTALS PROVIDE SUPERIOR CLIENT SERVICE

Providing the organization of relevant client documents and information within a portal can be a valuable client service especially when a client needs to review matters when traveling or for a consumer client who is not used to retaining and organizing important paperwork.

While a few years ago, many consumers were unfamiliar with web portals and how they operated, today you can assume that most people use online banking services, online shopping services and have a variety of other password-protected sites that they log into for various reasons. It is also important to understand that an increasing number of individuals simply have no aversion to doing anything on the Internet and expect that there should be an online method of doing something where it is possible.

SECURITY STANDARDS

A client portal operates in a cloud environment. Those adopting a client portal solution need to consider whether the provider is operating according to best practices and security standards. One group, the Legal Cloud Computing Association, has developed a set of standards that may be useful in performing a "due diligence" examination of portal solutions. (http://www.legalcloudcomputingassociation.org/standards/)

Proper security is the responsibility of the individual attorney. Most attorneys do not have the training to do in-depth technical analysis or interpret every provision of every EULA. So, they must rely on information from others.

Another reason I am pro-cloud-based practice management solutions is that these programs were designed from the beginning to securely hold client information for lawyers. Indeed, the fate of the companies depends on fulfilling those promises.

But you do not need an extensive technical background to do some research. Read product reviews. Talk to the OBA Management Assistance Program advisors. Ask questions. Read the material the vendors provide you.

But most small law firms need a practice management solution to manage the information in their digital client files. Subscribing to one of these services that also offers a client portal as an included feature is a wise decision.

PORTALS PROVIDE ACCOUNTABILITY

The tracking features of a client portal also provide accountability as an incidental feature.

Many lawyers have dealt with the situation where a client denies receiving an important document or notice. Even an email read receipt can be denied as having been received by the client. ("Maybe I accidentally hit that scrolling through emails on my mobile phone. But I certainly never read that or understood I had a deadline.")

As a normal part of its functioning, the client portal record every login to the portal and most actions taken. this means that the records of the portal reflect each time a client logged into the portal and every document that they opened. If a client attempts to deny receiving something, it can be handy to have the exact date and time that they viewed every document in the portal. This might be particularly helpful if they are denying receiving a document that the records reflect they opened twice in the days before meeting with the lawyer or attending a court hearing.

However, these normal digital tracking records can be the proverbial two-edged sword. If an associate in the law firm is certain that they shared a document with the client or that they uploaded it to the portal, the records will clearly reflect whether that happened and when. Hopefully, if the way the portal functions are carefully explained to everyone working in the law firm, this function will merely serve as an understanding of the needed accountability in handling a client file and any “gotcha” situation between law firm employees will prove unnecessary.

FOR VIRTUAL LAW PRACTICES, YOUR PORTAL IS THE ONLINE OFFICE

The idea of virtual delivery of legal services will certainly live on past this pandemic. There were virtual law firms operating before the pandemic.

Most law firms will institute some method of securely sharing digital documents and, on the client side, a portal with the collection of all documents shared to date is simpler to deal with than encrypted email and saving each attachment securely. Lawyers in private practice will likely all have some sort of portal going forward because of the need to confidentially share documents.

But for a virtual law practice the portal is the front door, the waiting room and the lawyer’s office. It is important that this look professional and attractive as it is a large part of what creates the client’s perception of the law firm’s professionalism and services. So, you will need to explore the customization tools available to you.

While it is likely that almost every law firm will evolve to having some sort of secure method of sharing documents with clients, with a virtual law firm your portal is the law firm in terms of setting the client’s perception. You would certainly want to pay attention to all customizations that were made available to you by the provider. If your law firm doesn’t have a logo, this may be a good time to have someone create one for you as it would be a nice part of the portal that would be unique to your law firm.

Just remember that all of the investment you make today is building towards the future. No doubt your law firm’s portal 10 years from now may look much different than what you can offer today. But the portal your firm develops today serves your clients today and provides the foundation for what you will be offering in the future.

THE FUTURE OF PORTALS

Ambitious law firms may develop different types of client portals in the future. If you represent clients in a particular industry, it might be full of news, information and downloads related to that industry. The law firm may decide that indefinite portal access for current and former clients is in the best interest of the firm. A law firm catering to individual consumer clients may build a portal with a wealth of basic information, downloads, statutory forms and even some do-it-yourself forms for consumers. If reading that strikes you as too risky, then your law firm will not be doing that. But other law firms will.

The model for a portal like that may be 90 days access after all client matters are concluded and afterwards there is a fee for an annual subscription to that service. Maybe a few simple questions would also be answered at no charge. But I also see models like a consumer bankruptcy law firm portal providing months of largely automated "after care" helping clients to make better financial decisions in the future.

Subscription models – A portal can also form the basis of a subscription model for delivery of legal services. The annual subscription would allow clients access to all of the white papers and other material available for download in the portal. But there would also be some annual services included (such as a will update review questionnaire with a discounted rate for a new will if needed) and a number of services included in the annual subscription fee like simple powers of attorney where the clients complete the information online and a lawyer reviews the document to make certain it does what the client seeks before releasing to the client. Some of these could be legal matters that attorneys often do not handle, like an agreement to buy/sell a car or a limited power of attorney when a minor child is vacationing out of state with another family.

Citrix ShareFile. Citrix ShareFile is a cloud-based storage service offering secure file sharing on any device. This customizable solution integrates with tools you already use and provides law firms with unlimited storage, instant notification and access to files from any device. ShareFile Advanced plan also provides encrypted email via plug-ins to Outlook or Gmail that allow users to send secure email messages with the click of a single button. ShareFile subscribers also have the ability to provide a link to clients so that the client can securely upload documents for the attorney.

One of the advantages of a program like ShareFile is you can send large files securely without having to be associated with a client portal. You also can email a ShareFile link to anyone who can then use that ShareFile link to securely send documents to you.

Microsoft 365 Microsoft OneDrive for Business incorporates many secure file sharing tools.

Other file sharing solutions include Dropbox Business, Box, Google Drive and several others.

TIPS TO MAKE A CLIENT PORTAL SOLUTION MORE USEFUL

1. Become familiar with the function of the portal solution so that you can explain to clients that use of the portal is important. An attorney should not be responsible for training a client on how to access and use a client portal. This is not the best use of valuable attorney time and the client will likely not want to pay the hourly fee generated by attorneys providing this type of training. However, it is essential that you are familiar with the functions of the portal as clients will bring up the items about the portal in conversations. Remember that training and support are included with the subscription price of most cloud-based client portals. Help is there if you need it. Some practice management solutions that include client portals have developed training and support materials designed specifically for clients.

2. In addition to attorneys becoming familiar with the client portal, staff should also receive training. When an attorney is unavailable because they are in court or for other reasons, the staff should be monitoring the client portal and responding to communications. Unless they have access and training, staff cannot perform that function.

3. Take advantage of the mobility features of the client portal. Because client portal solutions are in the cloud, they are routinely available with mobile features. The client portal functions of most practice management solutions are available via the practice management solution app or through the website of the practice management solution, which is designed to be responsive to mobile devices. This means that clients and team members can collaborate everywhere, not just from their desktops in the office. Use of apps or responsively designed websites makes it easier than ever to store documents, emails, etc. in the cloud and access them from any device. Making use of these mobility features makes collaborating that much more efficient.

4. Customize your client portal. Your client portal will undoubtedly have customization options, and you do not need to be a design or technology expert to create a personable space for your clients or yourself. The amount of customization available may vary depending on the selected client portal program. Some solutions provide limited customization such as the ability to change the color scheme, update the logo, while others allow users to customize file structures and access to applications. Making use of the customization features can make your clients feel more ‘connected’ to your practice through the portal or can improve the efficiency of retrieving information by organizing documents, files or folders in a way that is more intuitive to you.

5. Clients should be instructed to first contact the portal provider for assistance should they have trouble accessing the portal. As discussed above, valuable attorney time should not be invested or billed providing technology training or performing helpdesk duties. Providers of portal solutions should provide this type of assistance as part of the support function. But the attorneys must be familiar with how the interface works. You do not want to be in the position of telling your clients you don’t know how to do what you are telling them they must do. However, if a client has repeatedly had difficulty with functioning of the portal, the client should advise the attorney so that the attorney can provide feedback to the portal provider or consider changing providers.

Most clients will appreciate that the client portal provider is not part of the legal team. However, if there is any concern that the client does not understand this, the relationship should be explained, and the client should be cautioned not to discuss deals of their case with the technical support staff of the portal software provider. But they should understand the portal company is engaged to protect their confidential information.

AN ETHICAL PERSPECTIVE ON CLIENT PORTALS

I will not state that using client portals is required by the Rules of Professional Conduct.

But legal ethics expert Mark C. Palmer comes close to that statement in his recently published piece Can Client Portals Reshape the Practice of Law? An Ethical Perspective.

After discussing the challenges of emailing confidential information to clients and various ABA ethics advisory opinions relating to email, Mr. Palmer writes:

"Fast-forward to today, and we still find law firms are **the least guarded path to the most sensitive data**. The juggernaut that is technology speeds forward with cloud technology, SaaS model software, advanced mobile devices and so on, while cybersecurity threats grow each year.

"The reasonableness of the extent and the methods of how to protect information has shifted, along with updates to the ethics rules imposed on lawyers. A new way has arrived."

He notes that secure client portals are this "new way" of protecting client information. Benefits of using client portals that he outlines include improved security, improved communication, improved payments and improved marketability.

He concludes:

"The level of technology competency required of lawyers is constantly coming under scrutiny. But by properly securing the client experience, we can prevent law firms from being the least guarded path to the most sensitive information. Law firm client portals shouldn't be tools of convenience but rather tools of necessity.

"For lawyers, that necessity is embedded in our ethics rules."

ETHICAL CONSIDERATIONS WHEN CLOSING THE CLIENT PORTAL

If the client portal is used for only sharing documents related to a matter, then the portal should be closed at approximately the same time that the client file is closed. (This is of course a different model than the subscription and other types of ongoing client portals discussed previously.)

One of the common ethical questions about portals is when it is appropriate to close the client portal, meaning that clients no longer have access to their information via the portal. The answer is that the portal should be considered an extension of the client file and ending portal access should be addressed in the attorney-client engagement agreement in the same way that matters like file destruction are addressed. This should be guided by any specific ethical guidance on the subject from your home jurisdiction.

But let's be clear. Closing the client's access to the portal is not deleting their information. Good business practices and ethical constraints require law firms keep a complete copy of the documents in the client's file for a period of several years. It is also most likely that much of the information in the client's file was never uploaded to the portal, such as the complete responses to document production in discovery.

Personally, I do not believe you do clients any favors by leaving a portal open for many months after a client's matter has been concluded. The idea is not to exclude the clients from their information. Rather it is to assist them in saving their information before the portal is closed. During the representation, there are many reasons why a portal is valuable.

As noted, it provided a secure communications method for sharing documents. Using a portal efficiently is timesaving for lawyers and money-saving for the clients. But once a matter has been concluded, the portal's efficiency wanes and the potential for an inadvertent disclosure of confidential client information remains, even if it is slight and even if it is the fault of the client for sloppily handling a password or having a browser remember a password on a computer that is used by another.

I do note that several estate planning lawyers I have discussed this topic with tell me that they prefer to leave the client portal open indefinitely. That makes it easier for clients to review documents used in preparing the estate plan. I do note that analysis makes sense if you also factor in a client's age. The rare 25-year-old who does an estate plan unrelated to any known health issues may not be the client who needs the portal left open indefinitely.

Once the client portal is closed, the law firm handles the request for information from a closed file from a former client the same way it would always have done. Your attorney client agreement should address obtaining documents from closed files, including whether there will be a charge for such retrieval.

30 to 60 days after the client's file is administratively closed is a good target date for closing the portal, in my opinion. But other firms will decide to simultaneously close the client file and the client portal so the firm can assure the clients have retained the documents they need.

Client portal closing checklist

A checklist for closing the client portal should be developed.

While it was covered in the attorney-client agreement, the client file closing process should include reminding the client (more than once) when the portal will be closed and they should print or save the documents before this date.

But we should note that the portal often means the traditional law firm practice of mailing clients many hard copies during the representation has been superseded. Therefore. some extra care may need to be taken to make sure that the client safely retains copies of the information the client wishes to keep. For many individual clients, printed copies of documents is a simple solution that does not involve digital security issues.

A few words of advice to the client about saving confidential digital information securely may be warranted. Many clients now have access to secure cloud storage and understand how it works. But others are very lax with their digital security. For the client who is not sophisticated with the use of technology, one suggestion might be to save everything to a flash drive and put the drive in the family safe in an envelope identifying the contents. But the client who owns a scanner and routinely keeps digital records may need little assistance while the client who does not do that currently may be best served to maintain hard copies.

Remember that you not only want to provide this advice to your clients, but if there is a problem later, you may need to be able to prove what advice you gave and when you gave it. Document the portal closing advice as a standard office practice or use written communication that can be saved in the client file. Once properly notified and closed, clients may be charged for recovering the information for them if they need it months later and didn't retain it.

Conclusion

Whether we are still using the label "portals" a decade from now remains to be seen. But there is no doubt that sharing of digital documents will increase and lawyers have an obligation to securely handle that information. Most law firms will have some type of portal because it is the simplest way to share a series of documents as the representation progresses and it provides a positive experience for the law firm's clients.

For virtual law firms, a client portal will be your first and strongest impression during the representation even though you may also have telephone conferences and other types of interactions with the client. A professional portal will assure clients that have retained a law firm that is modern and on top of the way business is transacted today.

But for almost every type of law firm, virtual or traditional, a portal is an enhanced service that provides a positive client experience twenty-four hours a day. You can set a tone for your law firm by what you offer in the portal beyond the basics of document sharing and online bill paying.

A law firm catering to the family law clients might offer free downloadable pamphlets on surviving divorce, explaining visitation to your children and other topics of interest. Most lawyers could easily write a short pamphlet on each of these subjects based on the advice they give their clients routinely. Other law firms will want to focus on other legal services that may be needed by the client and are offered by the law firm by skillful promotion on the client portal.

As more business is done online, it is important for your law firm's virtual lobby to properly represent the law firm. You would not want there to be holes in the sheetrock or stains on the carpet in your lobby where you welcome clients. Likewise, you want your virtual lobby to be clean, functional and modern in appearance. You want clients to use the portal because it helps your firm operate more effectively and allows clients to check matter status or review documents without receiving a bill for a phone call or email to the office seeking information.