TECHSHOW2018

Using Client Portals for Effective Collaboration

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ONLINE COLLABORATION

Collaboration is a critical element of successful client relationships, but it requires an ethical way to share confidential communications. The client portal has emerged as a must-have tool for lawyers who want to provide secure, 24/7 access to case files and other information. These allow lawyers to interact with their clients in a secure environment to share documents, communications, and payments for services. Lawyers can send out secure links to clients to access documents, invoices, and communication. In this session you'll learn about the varieties of client portals, how to configure and use them, and cut down on email in the process.

In 2011 larger law firms had been using "extranet technologies" for some time, but few solos and small firm attorneys had incorporated client portals into their practices, according to Richard Granat and Marc Lauritsen, co-chairs of the ABA/LPM eLawyering Task Force, However, because the cost of client portal technology was decreasing and the benefits of portals to clients and attorneys were beginning to be recognized, Granat and Lauritsen predicted that within five years almost all law practices would begin to use client portals. (Granat and Lauritsen, 2011). That prediction has not been fully realized. According to the 2016 ABA Legal Technology Survey Report, a greater percentage of large firms, as compared to solo and small firms, continue to adopt and use client portal technology. The Legal Technology Survey reflects seventy-two percent of large firms offer secure client portals, while a much smaller percent of solo and small firms, eleven percent, have adopted client portal technology. Notwithstanding these numbers, like professionals in other fields, such as physicians, bankers, and accountants, attorneys from large and small firms are increasingly finding that client portals can be important tools in helping them meet client needs and expectations. Today, with heightened awareness of the insecurity of the basic email, providing a portal allows lawyers an opportunity to easily share documents with clients (or opposing counsel) without succumbing to the temptation of simply attaching the file to a plain text email, which then travels across the Internet completely open with no security.

WHAT ARE SECURE CLIENT PORTALS?

Before continuing the discussion, it would perhaps be wise to clarify what secure client portals are. Donna Seyle, in her article Expand You Solo or Small Firm Practice Using Client Portals in Law Practice Today defined the term as referring to:

- A "secure web space" that is accessible to a client ... The term is most often applied to an electronic sharing mechanism between an organization and its clients. The organization provides a secure entry point, typically via a website, that lets its clients log in to an area where they can communicate, view and download documents, collaborate on document editing and upload private information. The portal exists only on the web and data is stored in the cloud. When data is transmitted between the secure portal and the client, it is encrypted. (Seyle)
- Wikipedia defines a 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) Clinked, a provider of client portal technology, defines a client portal as "software that allows you to interact with your clients, share files, discuss, chat, plan, organize and manage tasks and events in a private online environment." (https://clinked.com/2014/01/29/what-is-a-client-portal/)

- While these definitions vary somewhat, they all include a few essential elements. For example all of the definitions seem to agree that client portals are designed and intended to facilitate communication and interaction within an organization or between attorney and a client. Additionally, each of the definitions suggests that client portals operate in an online environment and are accessible via the web or Internet. However, the features available through various client portal providers vary. These features will be discussed in greater depth later.

WHY CONSIDER ADOPTION OF THESE TOOLS?

1. **Ethical Considerations.** A number of ethical considerations support the adoption of secure client portals by legal professionals. Two of these, confidentiality and technology competence, will briefly be discussed below. Additional discussion of the use of email versus client portals and the surrounding ethical considerations can be located in the attached materials.

2. **Confidentiality**. As noted in the materials accompanying this work, one of the often-cited reasons for providing portals is protecting client's confidentiality. ABA Model Rule of Professional Conduct 1.6 (c) requires a lawyer to "make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client**."** While many jurisdiction's ethics advisory opinions still provide that a lawyer may communicate with a client via unencrypted email, because of the increased number of email packs and intrusions, some ethics committees are revisiting whether lawyers should be required to use encryption when emailing clients. Rather than wade through this uncertain ground, attorneys can be confident that they have taken reasonable steps to protect a client's confidentiality by using an appropriate client portal.

3. **Technology competence.** Comment 8 to ABA Model Rule 1.1 regarding competence provides that "a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology..." Twenty-seven states have now adopted the duty of technology competence in some form. (http://www.lawsitesblog.com/2017/03/another-state-adopts-duty-technology-competence- canada-may-also.html) Most attorneys, after examining the risks associated with insecure email and the benefits linked to utilization of a client portal would conclude that use of unencrypted email for communication of either privileged or confidential information is not an acceptable option. Yet according to the 2016 ABA Legal Technology Survey, just over half of the attorneys responding to the survey noted that they send confidential or privileged information via email one or more times a day.

WHY CONSIDER ADOPTION OF CLIENT PORTAL SOLUTIONS?

1. **Practical Considerations Increased Efficiency.** With a client portal in place, a firm can more easily achieve the optimum number of billable hours for the client. Since a client portal assists in reducing interruptions of the attorney workflow from traditional communication channels such as telephone calls, the attorney can focus on other activities. As a result, a client portal makes the client servicing processes much more cost effective and efficient. Some attorneys also are using email as a remote access tool. The 2016 ABA Legal Technology Survey noted that just over thirty percent of respondents to the survey indicated that they often or occasionally send work documents to their personal email. Certainly accessing documents that have been reviewed by clients and returned through a client portal that is organized according to the matter the document relates to is more efficient than searching through an oversized email folder for a document that may or may not include comments from the client.

2. **Client expectation and retention.** Because of their experience with client and patient portals when interacting with other professionals, such as accountants, bankers and physicians, many clients have expectations regarding the use of technology in communicating with service providers. Failure to act in accordance with these expectations can result in the client perceiving that the attorney lacks technological competence. Such a perception may result in a client seeking other counsel in future matters. Without discussing communication preferences, attorneys may be unaware of client expectations and the perceptions created by actions contrary to those perceptions. The 2016 ABA Legal Technology Survey noted that sixty-eight percent of the respondents to the survey say they do not address preferred communication methods in fee agreements. While this does not necessarily mean that attorneys are not communicating at all about such preferences, it does provide some indication that attorneys do not see communication tools and methods as priority issues affecting clients' assessments of the legal representation they are receiving.

3. **Superior client service.** Providing the organization of relevant client documents and information within a portal can be a valuable client service in the case of a client representative who needs to review matters when traveling when his or her file is not readily available or for a consumer client who is not used to retaining and organizing important paperwork.

SOME THINGS TO CONSIDER WHEN SELECTING A PORTAL SOLUTION

1. **Goals and Features**. One of the challenges associated with selecting a portal solution is the way the portal fits into the goals of your practice. In addition to addressing the needs of your clients, the features of a portal solution should assist you in accomplishing your goals. Is one of your goals to build your contact list to allow you to generate future repeat business and referrals. Then perhaps you desire a solution that integrates into a practice management solution that populates new client information when intake forms are submitted in the portal. Is one of your goals to ensure that at least basic

communication, such as the receipt of documents by the client, is occurring? If this is your goal, you should select a portal solution that includes an activity log indicating when a client logs into the portal and when the client views or accesses content such as messages and documents in the portal. This type of "audit trail" could be very valuable if the quality and frequency of a lawyer's communications were later questioned. Is one of your goals to increase fee collection? If so, then perhaps you should consider a portal solution that integrates functions such as electronic payment. Other features that may be considered include the availability of two-way communications. Put more simply, does the portal provide the ability for the client to upload reviewed documents with comments into the portal so that they can be "returned" to the attorney for modification? Can the client send secure messages to the attorney via the portal? Ease of termination of client access may also be a consideration. If a third party has obtained the credentials of the client, how difficult is it for the attorney to temporarily or permanently revoke access.

Checklist for some important features to consider when looking for a client portal for your firm.

- ✓ Your client portal should be user friendly. If it is not it could make the process difficult for your client and will likely be more time consuming for you as well, as you will have to spend more time walking clients through it.
- ✓ Make sure the client portal solution is secure and that communications are encrypted to minimize liability for confidentiality breaches.
- ✓ Consider portals that offer document automation or integrate with your existing document automation software.
- ✓ Consider software that allows you to create invoices and gives you access to merchant service providers so that clients can make payments online. You should have the flexibility to create invoices with multiple payment types, schedules, payment plans, and based on various billing structures. Again, if you already have a merchant services provider that you like its important for efficiency to find solutions that allow integration.
- ✓ Your portal should provide for messaging and other communication access so that your client has the ability to comment on documents or contact you directly with questions.
- ✓ The portal should allow both you and your client to upload documents and exchange information.
- ✓ There should be a way for you to conduct conflicts checks throughout your database of clients and cases.
- ✓ It is beneficial to have as much in one place as possible so look for offerings that integrate with other software and technology that you are using. For instance, many portal offerings will integrate with your bookkeeping service provider, like QuickBooks. It is also important to make sure your portal software has features that are important for your practice such as calendaring to keep track of hearing dates or deadlines for you or your client.

- ✓ You may find one cloud-based portal solution that meets all of your needs or you may have to combine several services.

2. **Security Standards.** As previously noted, a client portal, for purposes of this discussion, operates in an online or cloud environment. Those adopting a client portal solution need to consider whether the software as a service (SaaS) provider in this environment 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 the provider of a client portal solution. (http://www.legalcloudcomputingassociation.org/standards/) One rule of thumb is determining whether a portal is HIPAA compliant. A portal that is been designed for the HIPAA regime of medical privacy will likely be appropriately secure for use by the legal community. While we do not categorically condemn the use of free portal services that are used by consumers, we do note the old adage "you get what you pay for." A fee-paid service is more likely to have 24/7security standards and quicker response rates if there are problems. And, in the unlikely event there ever was a problem with information security, the law firm would be in a stronger position by having paid for a secure portal.

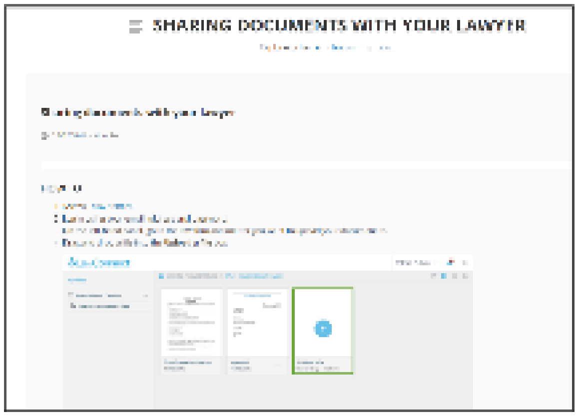
3. **Freestanding portals versus those integrated in practice management solutions**. Many cloud-based practice management solutions targeting medium to small firms are cloud-based and include a client portal as a part of their basic package. This has the advantage of seamless training because the lawyers and law firm staff are using the practice management software on a daily basis anyway. It also reduces expense. But this may makes it more challenging to share documents with opposing counsel or individuals not associated with a client file. A freestanding portal will likely have more advanced features at this point because the portal has to stand on its own in the marketplace.

TIPS TO MAKE A CLIENT PORTAL SOLUTION MORE USEFUL IN EVERYDAY LEGAL PRACTICE

1. **Become familiar with the function of the portal solution so that you can explain to clients why 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 so that you can explain why use of the portal is essential to maintaining the confidentiality of client information and so that you can effectively make use of the portal. 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. For example, PracticePanther has a module entitled *Client Portal (for clients)* and LEAP provides similar materials prepared for clients.

2. **Staff should receive training on the client portal.** In addition to attorneys becoming familiar 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 don't 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 other 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 retreating information by organizing documents, files or folders in a way that is more intuitive to you.
5. **Client 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 "wasted" providing technology training or performing helpdesk duties. Providers of portal solutions should provide this type of assistance as part of the support

function. Clients should only contact the attorney for assistance if they are unable to access content on the portal in time-sensitive situations. 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.

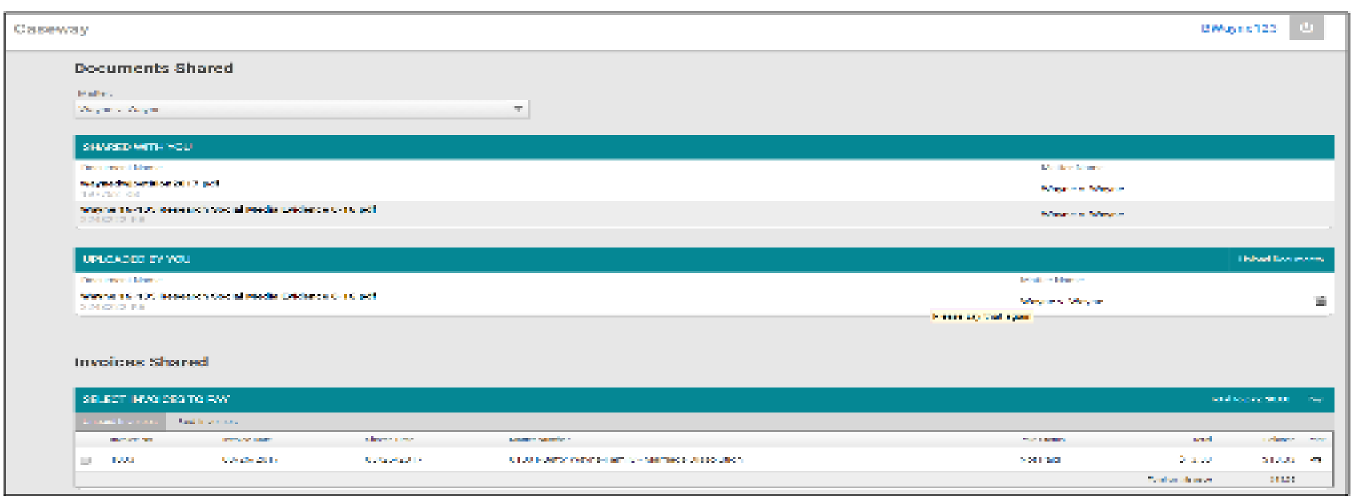


Most clients will understand that the client portal provider is not part of the legal team, however, if there is any concern that the client does not understand this, the relationship should be explained and the client should be cautioned not to discuss their case with the technical support staff of the portal software provider.

PORTAL SOLUTIONS

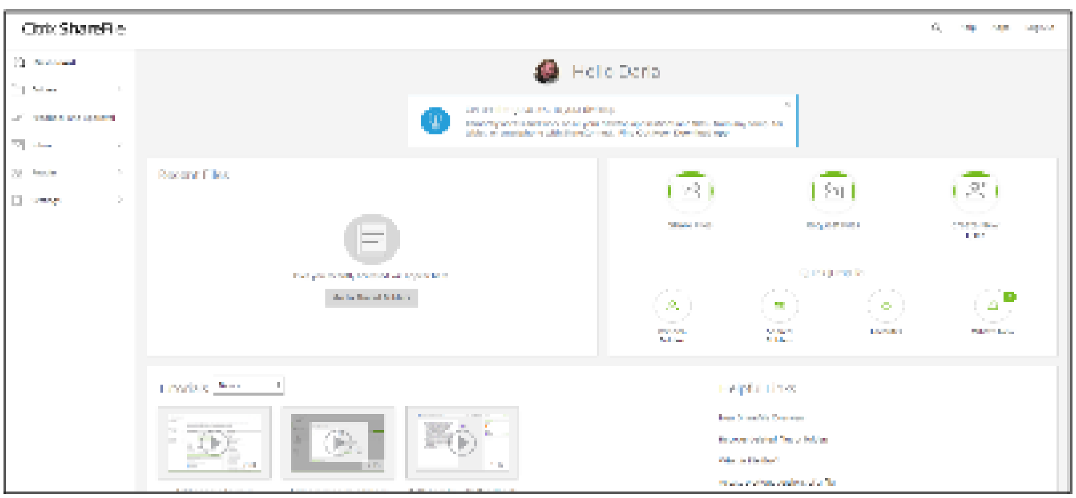
At the center of any efficient law firm model is a practice management solution. Cloud computing products continue to evolve allowing law firms to seek and implement solutions tailored to their particular practice, including client portals.

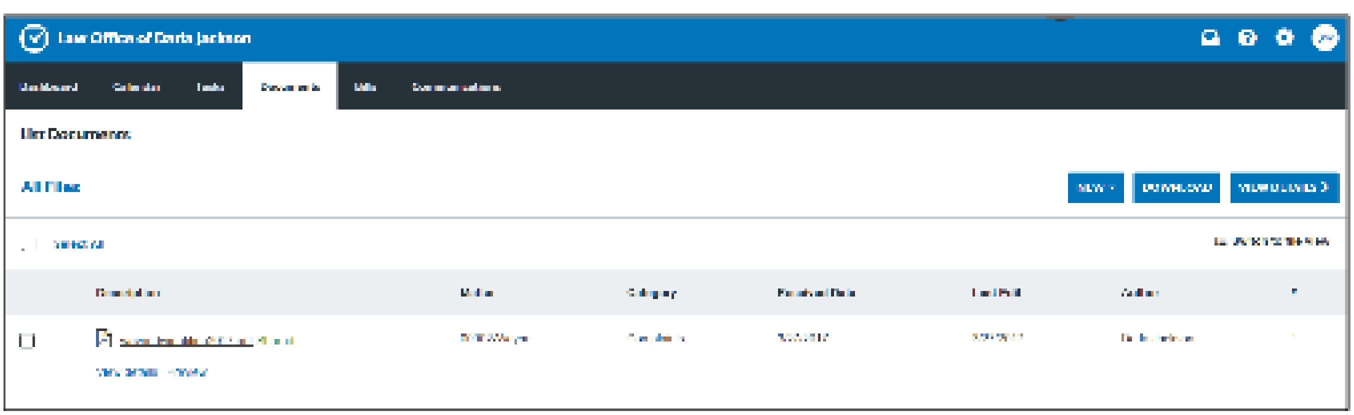
1. **Caseway, https://zolasuite.com/caseway-edge/.** Caseway is the client portal of the ZolaSuite practice management solution.



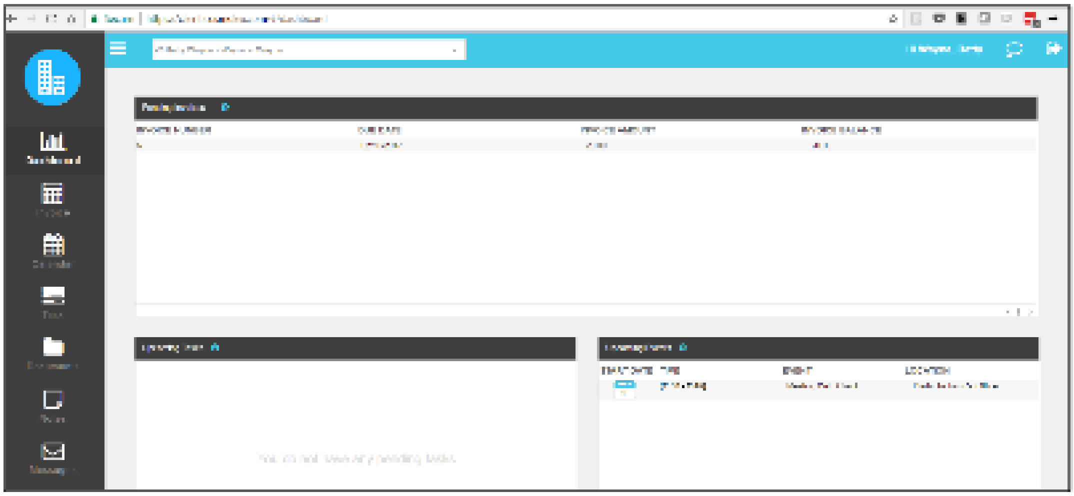
2. **Citrix ShareFile**, https://www.sharefile.com. Citrix ShareFile is a cloud-based storage service offering secure file sharing on any device. This customizable solution integrates with tools you already use and provides law firms with unlimited storage, instant notification and access to files from any smartphone or tablet with a use you just certainly did not secure mobile app. ShareFile also provides an add on to Outlook that allows 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.

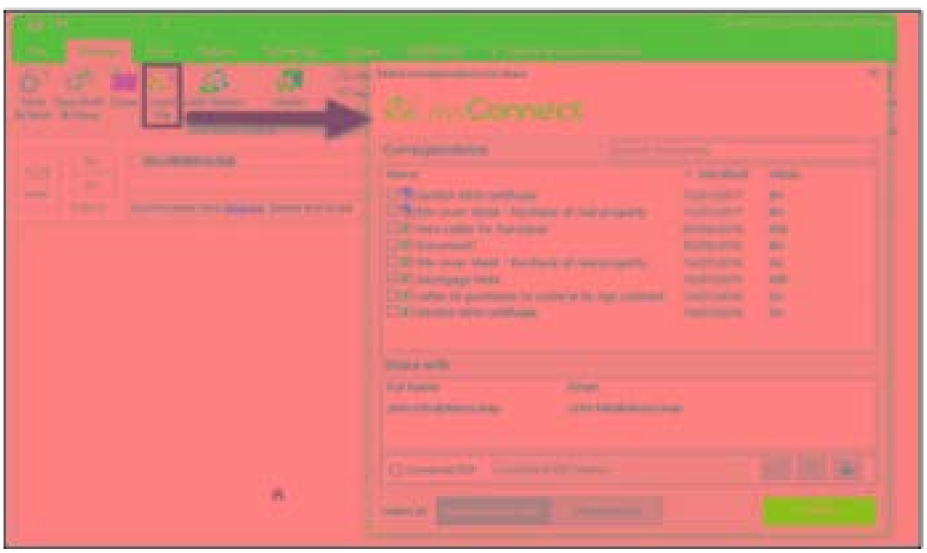
3. **Clio Connect,** www.clio.com, is the client portal available via the Clio cloud-based practice management solution. Clio provides users the ability to maintain contacts, calendars, tasks, time tracking, billing, document automation and storage, and the ability to share documents with clients via Clio Connect. Clio also integrates with a while host of software providers including email programs, calendars, document services, bookkeeping services, and others. For applications that do not directly integrate with Clio, you have the ability to integrate using services like Zapier.





4. **CosmoLex, https://www.cosmolex.com.** CosmoLex is marketed as the practice management solution for some attorneys and small law firms. Complex includes time tracking billing and accounting, trust accounting, calendaring, task and document management. The CosmoLex client portal provides a well-designed dashboard allowing clients to easily navigate through the information shared by their attorney.

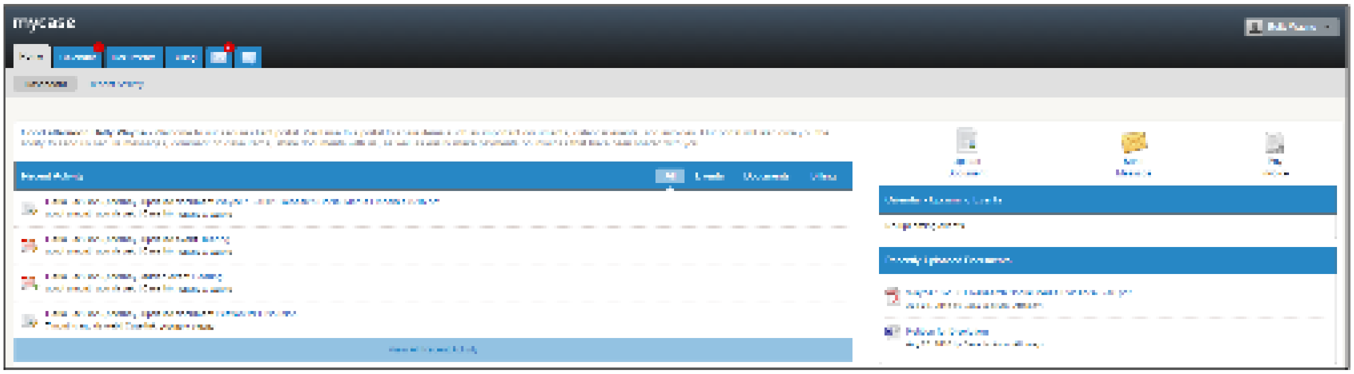




5. **LawConnect, https://lawconnect.com.au,** is the client portal provided by the **LEAP** practice management solution. Integrated with productivity tools such as automated document production, time recording billing and legal trust accounting, Law Connect provides an attorney with a means to securely communicate generated documents and financial information to clients.

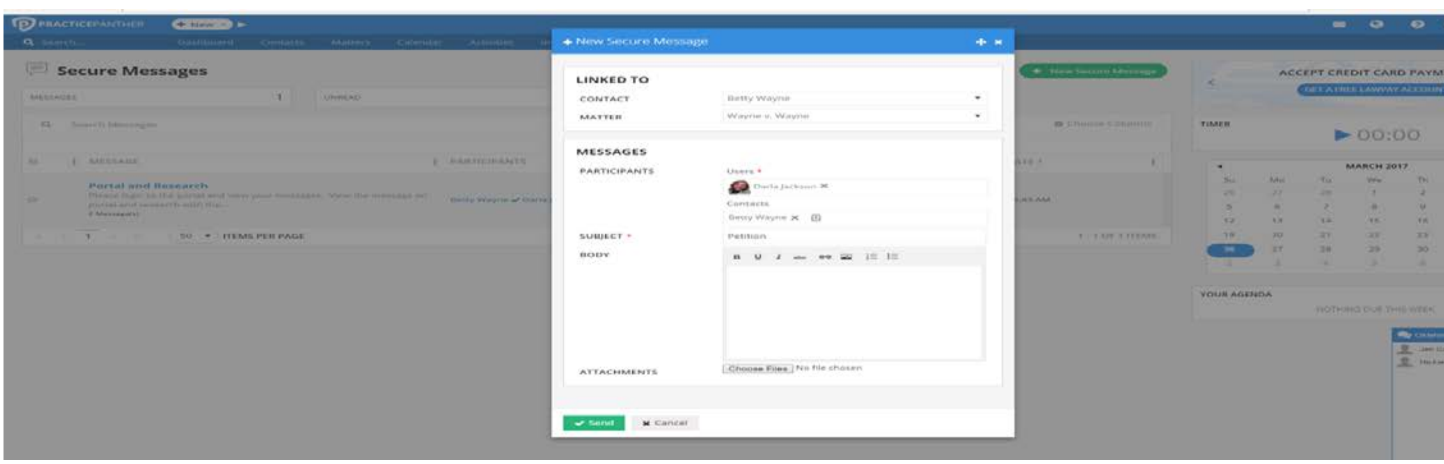
6. **MyCase, https://www.mycase.com.** The MyCase practice management solution describes itself as an ”all-in-one web- based practice management solution.” The

MyCase portal, as evidenced below, provides an activity log that can be viewed by both the attorney and the client. It also provides for two-way communication by allowing the client to upload documents send messages and invoices.



7. **PlanetXLaw, https://planetxlaw.com.** PlanetXLaw is an online, cloud-based legal document platform for attorneys to create online intake forms, store all client and matter data, and auto-populate the documents needed to provide legal services.

8. **PracticePanther, https://www.practicepanther.com.** PracticePanther is a practice management solution. Similar to other practice management solutions, PracticePanther tries to provide an all-in-one solution. However, PracticePanther also provides flexibility for integration of other tools through an application-programming interface. PracticePanther's client portal is designed to include a unique secure message function. PracticePanther also allows the user to change the language in which the portal is displayed.



9. **Rocket Matter, www.rocketmatter.com.** Like MyCase, Rocket Matter is intended to be an all-in-one legal practice management solution that will help law firms increase their

revenue and offer better client service. Rocket Matter customer support has been recognized as one of the best in the industry. Rocket Matter's client portal is well-designed to create a clean appearance and provide clients with the information they need, including billing information. Rocket matter provides the ability to maintain contacts, matters, calendars, and to-do items, time, and billing. It allows for integrations with Dropbox and QuickBooks.

10. **LexisNexis Firm Manager, www.firmmanager.com.** Firm Manager is LexisNexis' cloud based practice management solution offering the ability to customize templates and offering an Outlook integration. You also have the ability to grant online access to your clients for tasks, appointments, and documents.

11. **DirectLaw, www.directlaw.com.** This platform allows online delivery of services with client portals. New and existing clients can log into the system, sign contracts, and communicate with counsel. DirectLaw also integrates with RapidDocs and Clio.

- Note that most practice management solutions provide a 30-day free trials. Taking advantage of the free trial will also allow you to access the client portal function. While the trial is free, some practice management solutions require you to provide credit card information to begin the trial.

CONCLUSION

While we have not reached the point, as predicted by Granat and Lauritsen, at which almost all law firms are utilizing client portals, there are numerous reasons, based on both ethical and practical considerations, for greater numbers of attorneys to utilize these tools. Although the 2016 ABA Legal Technology Survey does not reflect that Solo and Small Firms are "flocking" to client portals in large numbers, it seems reasonable to conclude with the changes in technology and the legal profession, we will certainly see more attorneys adopting "standalone" client portal solutions and practice management solutions that provide client portal functionality.