

“I have many horror stories from probate lawyers and non-probate lawyers who have written defective wills. I also have horror stories from lay folks who have written wills for others — including family members and pastors.”

— *Gina Lynn*
The Law Office of Giannina Lynn

Probate attorney Gina Lynn was at the drycleaners recently and saw a poster for online legal services provider LegalShield.com. Their pitch goes: “A single lawyer can charge over \$250 PER HOUR. With LegalShield, you get on call access to an entire law firm for as low as \$230 PER YEAR.”

By contrast, the average will costs at least \$1,000 in legal fees. “Maybe I need to find another job,” Lynn joked.



Gina Lynn

Many in the legal community share Lynn’s puzzlement at the online legal services business model. You might scoff at the notion of a \$230 retainer or finding legal help via a dry cleaning bulletin board, but online legal services companies are laughing all the way to the bank.

Market research group IBIS World estimates that

online legal company revenues have more than doubled since 2006 and reached approximately \$4.5 billion in 2015. When dealing with wills, patents, LLCs, or housing leases, instead of calling a lawyer, consumers are now likely to Google and find popular sites such as LegalZoom, Rocket Lawyer, and Nolo to sell them do-it-yourself forms, or legal services subscriptions for around \$30 per month.

Should solos and smaller firms be worried?

“Legal software companies are taking business from traditional lawyers, it is a demonstrable fact,” says Benjamin Barton, author of *Glass Half Full: The Decline and Rebirth of the Legal Profession* and a law professor at the University of Tennessee.

Online legal services companies have revolutionized access to legal help by branding and packaging it in a consumer-friendly way. Barton sees this as “disruptive technology,” a term coined by Clayton Christensen, a professor at Harvard Business School, meaning an innovation that creates a new market and eventually disrupts or overturns an existing market.

Disruptive technologies usually begin with a market segment that is overlooked and undervalued, but eventually expand to include larger established markets.

“There are people who want a lawyer, but don’t want to pay a lawyer,” Barton says. “They’re afraid of being bilked. They’re scared of lawyers. It’s that in-between space [where people will purchase services online]

that is creating a mass market.”

“Think of it as a restaurant metaphor. LegalZoom and other DIY companies are like fast food. Individual, pay-by-the-hour lawyers are like fine dining. There’s lots of middle space for “fast casual,” says Barton. And that is the market segment that software companies are going after with their subscription-based models.

“They’re creating cheaper, mass-market legal work,” he says.

AIN’T NOTHING LIKE THE REAL THING?

Probate attorney Peter Antonoplos isn’t convinced. “You get what you pay for,” he says. Online legal software hasn’t taken business away from him as far as he knows. To the contrary, cleaning up do-it-yourself documents has been a boon.

“We have half a dozen cases now of partnership disputes that began with LLCs that were created using online platforms,” Antonoplos says.

When his clients signed these agreements, Antonoplos says, they didn’t consider the ways in which the businesses could grow and how partnership disputes might arise.

“Online platforms or templates are a perfect example of people being penny-wise and pound-foolish. You’re paying a lawyer not for documents, but for their advice and professional judgment and experience.”

ONLINE LEGAL SERVICES



Peter
Antonoplos

"About half of our estate litigation cases involve wills or trusts that someone tried to do themselves. Most are either poorly drafted or improperly executed," Antonoplos says.

Antonoplos relates the case of one client, a widow, whose family attorney told her late husband to go to an online site to do his will. The result? The estate of \$5 million (of mostly commercial real estate) has to go to probate. When his client learned of this, she took the news "very poorly."

Antonoplos says there are many pitfalls to the do-it-yourself approach to estate planning.

"Online platforms don't take into account the nuances of revocable trusts, tax planning, distribution considerations. If you get a bad result, there's the presumption of intent."

In another of Antonoplos's cases, a second wife inherited income for life from her husband because a poorly drafted trust gave her the ability to invade the estate's principle. The result was effectively disinheriting the children of the first marriage.

"People don't appreciate the ramifications when they are trying to draft these complex documents online," he says.

AFFORDABLE AND ACCESSIBLE

But does every legal situation require a "fine dining" approach?

"I write a lot of wills and I don't think the forms are that bad," says Lynn, the probate lawyer who saw the LegalShield.com flyer. "The problems arise, however, when clients change the forms and do not follow the requirements of properly signing with two witnesses, or miss little things like putting the date in the correct places."

"If I was single and didn't have complicated assets and had a simple disposition plan, it's probably fine. It depends on how complicated your estate is."

What's complicated? "The taxation of inherited

retirement assets is extremely complicated. Any decent estate planning lawyer is going to do an 'asset checkup' to make sure the client understands what passes through their will and what does not, and how their beneficiary designations and co-ownership arrangements needs to be coordinated with their will."

Lynn, however, says it's not just online legal software that screws up.

"I have many horror stories from probate lawyers and non-probate lawyers who have written defective wills. I also have horror stories from lay folks who have written wills for others—including family members and pastors," Lynn says.

But Lynn says she understands why people go elsewhere for help. "It's lawyers' fault for people being scared of them. There's a lot of overkill."

The consumer's fear of overkill and crippling expense isn't imaginary. According to the National Law Journal, over the past decade there has been a 75 percent increase in legal costs (compared to a 20 percent rise in non-legal costs).

To the average person, the accessibility and affordability of online legal services have been a blessing, Barton says.

"It may have harmed some people, but overall it helps address the access to justice issue in the U.S. I'm a techno-optimist on that front. There's also anecdotal evidence that [DIY legal software] has driven down the prices of mid-range legal services," he says.

LEGALZOOM GOES ON THE OFFENSIVE

LegalZoom general counsel and corporate secretary Chas Rampenthal says his company is about giving consumers choice—and there is a deep market for that choice as evidenced by how much the company has grown in the last decade.



Chas
Rampenthal

"There's a flaw in the small law model. We do things your small law firm or solo just can't do because of scale or volume. Our model solves the access problem. The old model is unwilling to solve access, which is not flying with consumers."

— Chas Rampenthal,
LegalZoom

"When I joined 13 years ago, there were fewer than 40 employees," Rampenthal says. "Today, LegalZoom employs over a thousand people in Austin, Texas, and the Bay area, California. It also has an international presence with a law firm in the UK"

"[We are] giving people legal options the way TurboTax helps people with their taxes," he adds.

Does the average person know how to find a good accountant? If he did, would he want to hire one if he could manage a software program for a fraction of the cost? Rampenthal says companies like LegalZoom are filling the same niche, only for legal services. For those who want their documents reviewed by an attorney or who have more complex legal issues, LegalZoom will sell them a subscription service.

"Most people don't know how [to find a lawyer]. It's not just the cost, most lawyers don't advertise, other than personal injury. There's no 'brand' when it comes to law firms [with the average consumer]," Rampenthal says.

LegalZoom hopes to be that brand consumers turn to with their legal problems.

"There's a flaw in the small law firm model. We do things your small firm or solo just can't do because of scale or volume. Our model solves the access problem. The old model is unwilling to solve access, which is not flying with consumers."

The "new" model, however, hasn't always flown with bar associations. LegalZoom has faced lawsuits in eight states trying to shut it down for violating state laws prohibiting the unauthorized practice of law. At the crux of the issue has been whether or not providing legal forms is giving legal advice without a license. When a customer purchases documents, LegalZoom guides them through a questionnaire process and then LegalZoom employees review the answers. The services come with the disclaimer that "LegalZoom's legal document service is not a substitute for the advice of an attorney."

Some have argued that this guidance and review process crosses the boundary from document provider to legal adviser. Others have argued that these challenges to online software companies are just lawyers trying to protect their income.

LegalZoom hasn't taken threats to its business lightly. In 2015 LegalZoom filed a \$10.5 million antitrust suit against the North Carolina Bar, which settled under terms favorable to LegalZoom.

Rampenthal says the lawsuit was the result of the North Carolina Bar's "unfortunate posture" with cease and desist letters.

"We told them to come to the table or we will file an antitrust lawsuit. We wanted to register our legal plans there and they kept refusing," he says.

In the settlement agreement, LegalZoom agreed to vet all of its documents with North Carolina lawyers, and the bar agreed to support a clarification of the definition of "unauthorized practice of law."

When consumers want more than do-it-yourself documents, LegalZoom offers legal subscriptions. Since 2010 these services are available in 48 states, plus the District of Columbia.

Rampenthal describes the business model: "We retain lawyers on a monthly basis. We pay a capitated rate fee based on the number of participants [in the geographic region of that lawyer]."

For the subscription rate, which starts at \$31.25 per month, the customer gets legal advice, review of legal documents, annual legal checkups, access to legal

forms, and if further services are needed, a discount on those services.

Rampenthal says the subscription model is an alternative to individual pay-by-the-hour rates for legal services. "It's a benefit [to consumers] to speak to a lawyer without the meter running," he says.

Is it a benefit to lawyers?

"We pay lawyers well. The system is set up so that the lawyers are well compensated."

IF YOU CAN'T BEAT 'EM, JOIN 'EM

Dunlap, Bennett & Ludwig is one of the law firms LegalZoom has partnered with since it began its subscription services in 2010. Partner Thomas Dunlap says "out of a law firm of 40 people, LegalZoom is the bulk of the work for four of our lawyers."

Dunlap, who has an MBA, describes LegalZoom's business model as "freaking disruptive, but I mean that in a good way." Previously, the firm had tried to compete with LegalZoom for trademark business and "completely failed" on the pricing model, so Dunlap approached LegalZoom about working together.

Dunlap says LegalZoom fills a niche for clients "who don't need a lot of hand-holding."

Dunlap Bennett associate Mary Penn says "much of the work involves simple answers to simple questions, like do I need a corporation or an LLC?"

For Dunlap, however, "All long-term real legal work is relationship-driven." He sees being on a subscription retainer as good for building future business, and estimates that out of a hundred calls, maybe five will result in further legal work for his firm at some point in the future. "You want to be their go-to person" when other legal issues arise.

"We are not generally charging lower rates," Dunlap says. "Legal Zoom is automating access to lawyers, it's

an entry into legal services. The client gets to vet lawyers, the lawyer gets to vet clients."

"I generally charge my full hourly rate to meet with any new clients, as this is part of the traditional vetting process. Through the LegalZoom plan, members pay a fraction of that cost."



Thomas
Dunlap

Another win for the firm, says Penn, is the high volume of customers, which translates to high online visibility for her through LegalZoom ratings. "I speak with 10 different people each day, answering questions," Penn says. LegalZoom follows up with those clients and asks them to rate Penn using a Net Promoter Score and its own 5-star system. That, in turn, drives more business to Penn and the firm.

LegalZoom's Rampenthal says the legal subscription model is a win-win for lawyers and customers. "We want to be a partner to the legal profession. And we want consumers to be happy with the legal experience," he says.

Are legal subscription models the way of the future? Will lawyers get automated out of jobs like factory workers? Will robots try lawsuits? Benjamin Barton says not to worry... yet.

"Traditional legal services have a stranglehold on the market in two ways — appearing in court and drafting and signing court documents," Barton says. But for other services? "There's lots of vulnerability."

In Barton's opinion, "Lawyers should compete with these guys instead of outlawing them. In a post-computer world, lawyers need to state their value proposition."

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Photos courtesy of Pete Antonopolos and LegalZoom