Due Diligence when Selecting a Web Development Firm

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Every legal practice needs a website. That stopped being a question years ago. The question now is how you decide what web developer/partner is right for your firm. As with any technologically-advanced environment where few people know how it exactly works, the internet can be a scary and frightening place, and there are people and organizations out there that can intimidate and mislead even the most confident and knowledgeable attorney with jargon, misinformation, and out and out lies. This guide will help you determine how to best manage your practice online by arming you with the knowledge of how to separate those that would take your practice into unsavory or unethical areas from those that want to partner with you and build a respectable and upstanding web presence.

1. **Q: Why should an attorney even bother having a Web site to begin with? Isn't that more for big firms with hundreds of lawyers and dozens of practice areas?**

A:

- Every law firm, large or small, needs a Web site.
- The size and scope of a practice is inconsequential, as Web sites have evolved from simply being a way to announce to the world that you were a lawyer into a vital marketing tool to generate clients and revenue.
- Web sites help display case victories, relations with the community, professional associations
- Provide a platform for communication with clients
- Are always on, unlike a commercial
- Make it easy to track the effectiveness of a campaign, unlike print or other electronic ads
- Reach more people than TV, radio, or print ads

2. **Q: Let's get this right out of the way early. What's the difference between a Web designer, a Web developer, and a Web partner?**

A:

- A Web designer is usually one component of a development team that is in charge of aesthetic concerns such as:
  - Decides upon the layout of a page
  - Decides the colors, graphics, "look and feel" of what a page looks like
  - Occasionally has input on how the page should technically work, but that's more of the realm of a programmer

- Web developer is used to describe a team of individuals working to craft a Web page to fit a client's specifications and usually encompasses a diverse cross section of:
  - Look and feel
  - Copywriting
  - Programming
  - Technical Issues such as hosting, email, etc.

- A Web partner takes Web design and Web development and combines them both under one roof.
  - Think of it like this: A Web designer creates the look and feel of a site, a Web developer envisions what it will do and how it will do it, and a Web partner is the overall company or entity that coordinates these efforts and puts them to work for you. Design is a part of the development process, and Web development is what Web partners do. Web partners develop Web presences.
  - Marketing
  - Branding
  - SEO/SEM

3. **Q: There are a lot of different theories on what constitutes a good or effective Web site from a design perspective. How will I know good Web design from bad?**

A:

- The definitions of "Good" and "effective" sometimes have overlapping definitions, but depending on the context of the situation can have vastly different meanings.
- In lawyer marketing, less is very often more.

From a design perspective:

- If a site is built in frames or flash or both it is bad on a number of different levels:
  - Long download times for flash-heavy sites makes for poor conversions. People are fickle, and if they can't get what they want in a few seconds, they will find another lawyer's site where it can. They are sometimes pretty to look at, but not very effective.
  - For now, Google and other search engines can't read the code in flash, making it useless from an SEO perspective.
  - Frames are an antiquated way of displaying Web content that search engines can't read very well, and are often indicative of poor Web design strategies.
- Graphics on a Web site need to be in good taste, used to further conversions, and shouldn't overwhelm the user.
- Web sites with too many "bells and whistles" such as animation, gimmicky interfaces, or things that distract users from the purpose of the site is usually indicative of bad Web design.

- Don't let things like big flashy graphics or video sway you. These are not necessarily the hallmarks of a good development house.
- If they put a premium on style over substance, chances are they have little regard for the message you want to get across.

4. **Q: Is that why a lot of attorney Web sites fail?**

A:

- Web sites can fail for any number of reasons
- Failure to address the audience. If you are an attorney going after high end corporate clients and you build and market a page that would appeal to whiplash cases, you are not connecting with your market
- Not making the point of your site clear. If you obfuscate the point of your practice, you will not get people to hire you as a lawyer. Be clear and succinct in your content.
- Poor marketing. If you create a great Web site and make it impossible to find on the internet, you have cut out a significant portion of the purpose of your site, and it will fail.
- Bad look and feel. As mentioned before, relying too much on gimmicky tricks or outdated design practices will significantly hinder the ability for your site to make you money.

5. **Q: Ok, now that I know the common traits of bad design and why sites fail, how do I pick a good development firm that will build me the best site possible?**

A:

- That is a bit of a trickier question, as there are more factors that make up good Web development, some of which you can't see just by looking at a prospective developer's Web site
- Look at the developer's site design and layout; if it's not very good, will probably be bad too.
- Look at the clients in the developer's portfolio; if well established names trust them, so should you, unless the big names look bad as well, then they probably didn't see this video and went with the first quote they could find.
- Look at their credentials. If the developer is a cousin of a friend of yours, and not a professional entity that develops Web sites, you could be in trouble.
- Look at the sites the developer has created. If they conform to the guidelines we're talking about, they will probably do the same for you.
- Look at how long the developer has been in business; a long time generally means they know what they are doing, and have had enough clients to keep them in business. If they started yesterday, probably, but not necessarily, not.
- Look at the type of clients they have. If they work with lawyers exclusively, that is a good sign they know the ins and outs of legal Web site development.
- Ask for references and check them.

- Don't go with a firm just because it is large or associated with a business you know from another field. Ad agencies, law libraries and other companies have jumped on the bandwagon. This "me too" approach does not necessarily mean they are the best choice, even if they are well-respected in other areas.

6. **Q: Why is developing Web presences only for lawyers so important? Wouldn't any Web partner be as good as any other in making Web sites?**

A:

- The old adage that "the right tool for the right job" holds true especially in online marketing
- Developing Web sites for law practices takes a special blend of experience, knowledge and skill in order to communicate rather complicated and sometimes abstract ideas into concrete and effective content.
- You wouldn't want a firm that specializes in marketing consumer products to create a Web presence for a firm with a rather esoteric practice area of family law, contracts, or business law any more than you would try to hammer a nail into a board with a screwdriver. Sure, it might work eventually, but it's not the most effective strategy.
- Awareness of rules and guidelines of governing bodies like ABA, state bar others.

7. **Q: Ok, so you're impressed with a potential partner's website and clientele, now what?**

A:

- The only way to get a real feel for your potential developer is to actually communicate with them.
- You need to contact them to get a feel for how they work. Don't take their website's word for it. Get them on the phone and ask them how they go about doing their business.
- Ask them if they do all the development tasks in house; programming, design, art, copy, etc. If they outsource part of their production process that is usually an indication of cutting corners, and will potentially reflect poorly on the finished product.
- What kind of analytics they use to track the performance of Web sites. These tools help measure success, identify problems, and allow your Web partner to improve your Web site.
- Be wary of pay for performance models. They may seem like a cheap way to go, but can be easily manipulated

8. **Q: You said something about keeping all the development tasks in house. Why is that so important when picking a Web partner?**

A:

- Creating a Web site is like conducting a symphony; it takes a lot of different parts coming together to be effective: designers, programmers, writers, marketers and search engine optimization specialists.
- Keeping all these talents under one roof makes for a well-oiled machine, and allows for creativity to overlap and produce a better product.
- In order to do this, the team must have a large skill set of knowledge and experience working with different programming languages, design systems, and copywriting talent.
- Also, often the different perspectives offered by different people within the development team produces a synergistic effect that allows a project to transcend a simple idea into a well-developed and effective strategy.
- Splitting up a team or using multiple subcontractors our outsourcers robs a team of the fusion of creative input, and thus it is better to have all the talent under one roof.

9. **Q: So at the end of the day, after all these design and development concerns have been addressed, you have a great attorney Web site. Is that the end all be all of the development process with your Web partner?**

A:

- The end result would be for a potential client to find a lawyer's Web site and hiring that attorney in order to generate revenue for the practice.
- Law practices are businesses, and Web presences are a means to generate revenue and income.
- This mentality is critical to success, and to use a Web presence to its maximum ability.

10. **Q**: **Does the mentality to treat a law practice like a business affect the relationship the attorney has with their Web partner?**

A:

- It should in a number of positive ways
- It demonstrates that a Web partner is professional and takes the business of legal marketing seriously.
- When a contractor like a Web developer shares the same drive as the professional engaging them, it makes for the beginnings of a long-term and profitable relationship, especially if the personal relationship between the developer and lawyer grows appropriately.

11. **Q: Personal relationship? Grows appropriately? What does that entail?**

A:

- All too often these days a development firm will treat their clients as simply numbers on a balance sheet

- The lack of personal interaction between client and firm can be problematic, because when you trust a company to develop the Web presence for your firm you enter into a relationship that requires trust, dedication, and open communication.
- Because of the large volume of client sites many larger firms take on, they often have to "churn and burn" their clients, reducing the personal touch that is so important for success for so many Web sites.
- Firms that outsource or use freelance or independent contractors can shift from task to task and project to project, so the chances are good that the person that wrote your copy one day will not be the one that writes it the next. Knowing the person that creates your design or writes your copy helps them understand you better, and then in turn allows them to create a better product for you.
- Continuity is important, especially when trusting a firm with your Web presence.

12. Q: Why is maintaining continuity important for developing a Web presence with one company that important?

A:

- Perhaps this is the strongest benchmark of determining whether or not to use a development firm.
- The only way to maintain continuity is to use a company that has stood the test of time, and that won't run out on you taking your time and money with it.
- On the internet, companies come and go with the passing of the seasons, and any company that has managed to stick around longer than just a year or two probably has something on the ball.
- Firms that can claim they have weathered the ups and downs of a particularly volatile and faddy medium like online marketing are few and far between.
- Find one that has that track record and you will likely be very happy with their results.

13. Q: How long does it take to properly develop a site for an attorney practice?

A:

- That greatly depends on
  - The type of practice
  - If the site development is a onetime deal or part of an ongoing campaign
  - How big of a marketing/SEO campaign it takes to rank well
  - How sophisticated a Web site the client wants
  - Another issue is the maintenance it takes to keep a Web site up to current best Web practices, adjusts copy and design to maintain freshness, and fixes little tweaks that come up down the road.
  - And dozens of other variables

14. Q: Once the site is built, who owns it? The attorney or the Web partner?

A: Again, that varies greatly upon individual contracts between two parties.
You need to fill in this blank Jose because I really don't understand it myself.

- Verify that they do not rent their domain names, content, or design.
- Make sure you know what you own such as code, designs, content, and what you can do with them
- Your contract between you and your Web partner should spell out the length of time you pay for the services they provide, the amount of time you have for your hosting and url registration, and how you can move your information elsewhere if you decide to when the contract is up.

15. Q: Are there any tricks less than scrupulous Web partners use to rip off their clients?

A: Of course.

- As with every industry, there are people out to make a buck at the expense of the good faith of their clients.
- Because so few people actually understand the complexities involved in the world of Web development, these tricks often go unnoticed.
- Some practices include:
  - Black/Grey Hat SEO practices: things like sending out unwanted ads or links to sites, or jamming keywords into pages in order for them to rank higher
  - Creating doorway pages to sites: These sites are used to sucker unsuspecting people into one site, and then redirecting them to another
  - Building multiple copies of one site, and then charging the client for each site as a new project
  - Stealing copy from one source and passing it off as unique within a client's site
  - And so on…

16. Q: It seems that choosing a Web partner is a far more complicated task than I initially thought, and this is for the internet of today. What changes in Web development do you see three to five years from now?

A:

- Well that is anyone's guess really, but there are certain trends today that could be the standards tomorrow or be old news by the time you are done watching this.
- The rise of social media and direct interaction with your clients is an area to watch.
- New changes in the interactivity of functionality on the Web site itself. Client communication and interaction through portals on a Web site can speed secure communication between client and attorney, without having to resort to cumbersome email and phone conversations. Technology is at the point where you can have protected communications on line through a variety of means, and making an attorney more available to clients means that their relationship, as well as their

- communication, is more secure. And that's not the Web of tomorrow; that can be done today. Doing so can help save small attorneys money in their communications and interactions, and can help larger attorney films streamline multiple lines of communication between numerous clients, experts and other attorneys within your firm.
- The future of the internet will be more personal, more customizable, and the attorneys that embrace these changes will likely find a Web partner with the vision to make them happen.
- That's an important point to realize. Don't be afraid to embrace change, but take what you have learned from this video so that you don't wind up a less than honest or less than capable Web partner.

To be sure, there are a number of considerations an attorney must understand before undertaking a Web development endeavor. Although they vary from state to state, there are a few overriding concerns that should be touched upon here:

Bates v. Arizona (S. Ct. 1977) mandates that attorney advertising must be truthful and not misleading. Before 1977 lawyers were not legally allowed to advertise. Many worried that advertising would demean the profession.

(1) <u>Domain names</u>

- Must be truthful, not misleading
- Can firms use trade names for domain names?
- In many states, including New York and New Jersey a law firm website does not have to include words that identify the site as belonging to a law firm, as long as the URL is not otherwise misleading. *See* Association of the Bar of the City of New York, Formal Opinion 2003-01.
- One interesting part of the opinion → The domain name must not imply any special expertise.
- The court went on to opine that domain names such as these would probably all be considered unethical:
    - bigverdict.com
    - bigjudgment.com
    - bestlawyer.com
    - greatattorney.com
    - Personalinjuryexpert.com"

(2) <u>Content</u>

- New Jersey ethics committee concluded that attorneys may not include a picture of a judge on their website if the purpose is to advertise or market that attorney's practice.

Opinion 31 (180 N.J.L.J. 342, May 2, 2005).

- Firm must update the website often to prevent it from becoming misleading. The bigger the firm and the more turnover, the bigger chore this becomes.
- A NH attorney sued his firm for failing to take his information down after he left the firm, six months after he went into solo practice. It eventually took the firm one year to remove the information from the website.
- Rules regarding listing specializations
- Must be very careful of **misleading** statements — as well as guarantees, warranties, testimonials and monikers.
    - The various states have of many rules detailing what you can and can't say – and these also apply to websites.
    - New York and Florida are two states that recently updated their state advertising codes. In some states, for example, you are not allowed to list past cases on your website because advertising specific case results is inherently misleading.
    - The best advice — it's best to know the specific laws of your jurisdiction.

(3) <u>Electronic formation of A/C privilege</u>

- Many law firm websites include e-mail template for clients to submit confidential information that may be use to disqualify the firm.
- California ethics opinion where husband and wife both send confidential information to a firm, firm DQ from represented the husband due to the conflict of interest from receiving the confidential information. See *COPRAC Formal, Op. 2005-168.*
- In *Barton v. U.S. Dist. Court for the Central Dist. of Cal*., decided in 2005, the Ninth Circuit analyzed disclaimers on law firm websites.
- Many law firm websites many law firm disclaimers tend to use overreaching, boilerplate legalese that strip rights from legal consumers.
- The language of Model Rule 1.18 provides that receipt of the information by the firm will not preclude it from representing another party in the matter.
- The Committee lists some content to include in the firm website to avoid regulation in other jurisdictions, including an explanation of where the attorney is licensed to practice law.

(4) Unauthorized practice of law

- Internet is not traditional broadcast.
- People all around the world can see your website which could possible lead to an unauthorized practice of law claim. California attorneys should take note of FORMAL OPINION NO. 2001-155.
- COPRAC lists some content to include on the firm website to avoid regulation in other

jurisdictions, including an explanation of where the attorney is licensed to practice law.

(5) Newsletters

- Stay away from practicing law or offering legal advice.

As president and founder of WebJuris, a boutique Web marketing firm located in San Diego, California, José Rosa has seen his share of internet booms and busts since he began partnering with the legal community in 1995. Now going strong in its 15th year in one of the most competitive and constantly-evolving industries, WebJuris combines cutting-edge technology with the knowledge and experience garnered from a legacy of profitable online projects to create innovative and successful Web presences exclusively for the legal community.