

Mary Vandennack provides the transcript from Legal Visionaries podcast on Automation and AI Opportunities for Estate Planners

## TRANSCRIPT:

**Mary:** On today's episode, my guest is Deirdre Wheatley-Liss. Deirdre focuses her practice in the areas of asset protection planning, taxation, estate planning, and administration, elder law, and also representing closely held businesses and nonprofit organizations. She has experience in Medicaid, retirement benefits, probate and will contest litigation, guardianships, and advocacy for the elderly and disabled. Deirdre joined me on a previous episode where we discussed the client-centric practice. I asked her back today to talk to me about automation and artificial intelligence opportunities for estate planners. Thanks for joining me again.

**Deirdre:** Thank you so much, Mary, and thank you for asking me to talk about my favorite topic after taxes, which is technology. I am a total techno geek. I love trying to find new ways to be able to bring technology that the overall business community is using into the law firm practice area. I think it makes for happier clients, it makes for happier employees. Candidly, it makes for a happier Deirdre if I can be more efficient in what I'm doing. And I'm very excited to be able to share with you some thoughts around how we've integrated automation and are starting to integrate these artificial intelligence, not that it's new, but artificial intelligence tools into what it is that we're doing to increase the quality that we're providing to clients, to do it on a shorter timeframe, to do it more efficiently, and most importantly, to do it very profitably.

**Mary:** And I'm just going to repeat a comment that our producer made to me when I was recording a podcast earlier this week that I've repeated about a hundred times since, which is when people ask if they're going to be replaced by artificial intelligence, the answer is no, but you're very likely going to be replaced by a person plus artificial intelligence. So, let's talk about the business case for the use of AI and automation in a law practice and actually how it can boost profitability.

**Deirdre:** Yeah, so I want to make a comment on being replaced by artificial intelligence. There's just no way that I see it, but it is going to be a shift, and this is what I see happening. There are a lot of, I'm going to call them lower-level repetitive tasks that we have to do right now. Those lower-level

repetitive tasks within the next two, five, whatever the case may be years, are going to be taken over by technology. That doesn't put us out of a job, though. That relieves us of time that we're not able to spend with clients right now. It relieves us of the minutiae of practicing law, so I actually see this elevating the practice.

For those of us who've been practicing for many, many years, it gives us an opportunity to actually engage with clients, find out what their needs are, educate them, talk to them. And for younger attorneys, instead of having to, oh, I don't know, check citations over and over again, they'll more quickly in their career be able to be speaking to and working with and engaging directly with clients, which I think is going to increase the overall happiness of attorneys as well as elevating the level of client service that we can provide. So why is this important? Profitability.

I speak a lot. I know lots of attorneys, and I do a lot of talking about the business of law, of running a law practice, and many I find, they make it too complicated in terms of is my law practice successful? And they don't look at their numbers and use those numbers to make changes of what they're doing. So, what is profitability at the end of the day? Profitability at the end of the day is how much revenue are you bringing in for doing something over the cost of what that is? And the cost is not your billable hour rate. The cost of doing something is what are your direct costs, which would be the cost of your employees, the cost of your space, your indirect costs, the cost of your overall marketing allocated in some way, the cost of your IT systems.

There is some number there that you can come up with, which is the cost per hour of a person, Deirdre, Mary, my legal assistant, my paralegal, my associate, my counsel working on a file. If I were to multiply the time, the cost of what it spent versus what the return was on the file, again, not my hourly billing rate, but the true cost, that's what my profitability is. And that's something that I think people are missing because oftentimes, I find attorneys who are laboring in very unprofitable areas of their practice because their gut says, these are my most profitable. They may be their highest revenue areas, but they're not necessarily their most profitable areas.

And they're not looking at, where are those areas where I'm getting the greatest profit and should I maybe be putting my marketing dollars, as an example, towards what those areas are? And what it comes down to, your most expensive resource is your people, and that's where automation comes into play and AI comes into play because if we can reallocate our

most expensive resource, our people that are working with our clients to provide the highest level of value and reduce the cost through automation and AI of those minutiae details, we can have people working more profitably, more effectively, and more happily by putting automation and AI into our practices.

**Mary:** Well, let's talk about some examples of automation that you can put in place in a practice.

**Deirdre:** Absolutely. So, from an automation perspective, and I know that Interactive Legal sponsors this event, but that happens to be who I use for our drafting. Through having drafting software, and in order to use drafting software well, candidly, you have to give up some of the pride of your language when it comes to drafting. Because the idea is that you're going to produce the same high-quality documents with the exact same language over and over and over again. And by using automation, we've been able to set up a variety of profiles, and this can be done in elder counsel, wealth counsel, across the board. You could actually automate your own documents. I don't necessarily recommend it simply because the law is constantly changing and now you have to have a person who's responsible for updating all of your automated documents. But the idea being that if I'm doing a power of attorney, a living will, and a disclaimer will with guardians, that that document that is initially produced by our drafting clerk, not by an attorney, but by our drafting clerk, is going to be the same over and over and over again. The rule against perpetuities language is identical. The powers for the trustees are identical. This then leads to efficiency that I just need to focus on where that document's being customized for the client, and when I'm looking at it, the language, the paragraphs, the words are the same over and over and over again. So, a high level of quality control and a reduced amount of time both on the initial production and then on the review of the documents, which means I spend all my time actually talking to the client, not trying to make sure that the old client's name of Smith isn't in there when I'm doing the Jones' documents. And I'm going to tell you, the clients may not read every page of the document, but if you have another client's name in there, they are absolutely going to see it. It's going to jump out to them like there's a band behind it in terms of what they're doing.

So, investing in the technology to automate, agreeing that we're going to automate everything. It's not just that Mary's going to automate her documents and Patricia, she's going to use the old forms from 2012, but we're all going to automate leads to higher quality, leads to more efficiency.

And at the end of the day, because the product is the same no matter who's delivering it, it also reduces the risk for the law firm that maybe somebody deleted a paragraph somewhere that was really important, like, oh, waiving the bond in a will.

**Mary:** So, let's talk a little bit about the ethical issues with technology and artificial intelligence specifically.

**Deirdre:** Absolutely. So as attorneys, we are bound by ethical rules, and everyone's seen the case of the two poor attorneys in New York that used ChatGPT to generate cases that didn't actually exist. And while it got a lot of play, I candidly don't blame that on ChatGPT. It wasn't its fault. I treat ChatGPT as if a brand new, wet behind the ears, just passed the bar attorney gave me a piece of information. Yes, they have training, and yes, they have knowledge, but you know what they don't have? They don't have any experience at all. And I'm going to review a document that I get from that person much more carefully than I'm going to review a document that I'm getting from someone who's been practicing for 15 years in an area, right? So, I don't blame AI there, it's just that AI happened to be what caused the situation.

Having said that, we have a duty under 1.1 comment eight to actually evaluate the risks and benefits of technology. So, it's actually unethical to say, I'm never going to use AI because this scary case happened, and I don't want it to happen to me. We have a duty under 1.5 to charge a reasonable fee. Using automation and artificial intelligence can help potentially reduce the cost of litigation, of drafting, of whatever it is that we're involved in. On the flip side, we have a duty under 1.6 to maintain confidentiality. Well, that's pretty easy. Don't put your client's names into ChatGPT. If you're going to use Grammarly, change all the names to Mickey Mouse and Minnie Mouse before you put it in Grammarly to make sure that it's reading in the best possible way to do it. We also have a rule under 5.3 to supervise non-lawyer assistants. That goes back to ChatGPT and Grammarly. So, if there's an opportunity to be able to utilize those as attorneys, we're required to review them, but again, how is that different than getting a piece of information from a brand new attorney where you're evaluating their work product and seeing whether or not, hey, these cases are the cases that we need? And then finally, every firm needs to have a policy about how they're going to utilize AI. If they drafted their policy before, I don't know, December of last year, they don't have an AI component in it because it really just exploded on the news scene.

Notwithstanding, we've all been using artificial intelligence for years. Siri is artificial intelligence. We've been utilizing it, but firms should have a policy, not to say you can never use it, but to say you have to investigate its uses. Never put client information in there, and as a practical matter, you can never issue something without your own review of it, whether it's going to be attorney work product or it's going to be marketing or communications material. But honestly, I think that's the don't be stupid rule, because nobody should be just passing somebody else's work along as their own without glancing at it in the first place.

**Mary:** So, can you give us some examples of artificial intelligence integration?

**Deirdre:** Yeah. So, for myself, and I use it all the time, and again, because I'm interested in it ChatGPT works really, really well, I find. Draft me an obituary for somebody who passed away at age 75, had three children, eight grandchildren, and really loved animal rescue organizations, right? You're going to get a good starting point for that. ChatGPT, I'm a lawyer. I'm trying to put together a four-paragraph article around the estate tax changes related to grantor trust. You're going to get a good starting point from that. ChatGPT, I need to put together an artificial intelligence policy for a mid-size law firm located in Nebraska. All of those things, if you're noticing the prompts that I'm using, I'm not just saying I need an artificial intelligence policy. I'm saying who I am, what I need, the output that I want it to be, for it to become a starting point.

So, the first thing with ChatGPT or with any of this artificial intelligence, you have to have a good prompt. And you may say, I have no idea how to get a good prompt, but you know what you have? You have access to YouTube. Go to YouTube, type in how to write a good ChatGPT prompt, watch a couple of 5-10 minute long videos, and you're going to be an absolute expert and it's going to cost you nothing but time. I think that the best use cases for this are email communications when you're trying to potentially communicate a very complicated idea because you can even say, ChatGPT, explain, the generation skipping tax at a high school level. And you're not going to send it out as is, but it's going to give you an idea of what it is to do.

Other things. If you're going to write an article or do a PowerPoint presentation. ChatGPT, outline a PowerPoint presentation for me going over the ethical issues for attorneys in X, Y, Z area, you get bullet points and now you can turn those into your PowerPoint presentation. Those I

think are the best things to do. But in terms of the use case, you have to try it. I just don't want people to be fearful that it's out there and say, well, I'm not going to use it because we're going to very quickly change from your clients saying, I'm concerned that you're using artificial intelligence to them saying, hey, you could be using artificial intelligence. Why are your fees so high given that you can automate all of these tasks? And we need to get ahead of that question.

**Mary:** I've actually had clients already send me documents that they pulled up in ChatGPT and asked me if this would work for a situation, so I think we have to use it. But I do think one of the things I've heard is that we're talking about ChatGPT, but the broader context is really artificial intelligence in general. And what I'm hearing is ChatGPT is going to be obsolete in a couple of years. Whether or not that's accurate, I have no idea. But I do know that we have a lot of companies in the legal industry that have a lot of data and a lot of databases that are really working hard to create tools, so I think the super important point that you made is be paying attention to artificial intelligence and how you can use it in your practice. Do you have any last thoughts on this topic today?

**Deirdre:** Yeah, so one thing to think about. Most of us use Microsoft-based systems. Microsoft is an absolute leader in this area. Don't be surprised if your next upgrade of Outlook that there's a helpful little thing that when you hit reply to an email, it actually types out a reply for you to be able to look at. This is where we're going, and once that happens, there's going to be an expectation that we are utilizing these tools. So, going back to using automation and AI for profitability, what is it that you can do to be elevating the positives of that in your practice? Hey, clients, I'm going to have longer times to be able to meet with you. I'm going to be able to spend more time training my associates for what they're going to be able to do. If you're billing by the hour, is there an opportunity to start billing on a flat fee basis for something?

Because if what used to take you 10 hours is now going to take you three hours, your intelligence to get to that hasn't changed, just the means of doing it, so maybe you bill for that on a flat fee basis. So, I encourage attorneys not to be fearful because the news has been scandalous that we've all seen, but to really think about how is this going to impact my practice? And Mary, to your point, it's not going to be impacting our practices in 10 years. It's impacting our practices now. And if you and I were to speak one year from today, I guarantee you we would have a

whole list of things to talk about automation and AI that just don't even exist today.

**Mary:** Oh, and I was actually thinking that before you said it, that I'm going to calendar a followup for this one year because there'll be huge changes and it'll be fun to see those changes in that one year. So, thanks so much.

**Deirdre:** Absolutely.

**Mary:** Thanks so much for joining me today. And as we reach the end of our episode, I want to thank our sponsors, Interactive Legal, Carson Private Client, Veterans Victory, and Foster Group. That's all for now. Thanks for listening to today's episode and stay tuned for our weekly releases.