

GILFIX & LA POLL
ASSOCIATES LLP
Legal and Consulting Services

2479 E. Bayshore Road, Suite 220
Palo Alto, CA 94303
Telephone: (650) 493-8070
Gil-Fax: (650) 493-4668
website: www.gilfix.com

The ElderLaw Report

Including Special Needs Planning

April, 2016 Issue

Technology Innovation and Long-Term Care: *Report From the Aging 2.0 Expo*

By Mark R. Gerson Gilfix

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Technology Innovation and Long-Term Care: Report From the Aging 2.0 Expo

By Mark R. Gilfix


There has long been a gap between the worlds of aging and technology innovation. The organization Aging 2.0, founded in 2012 by Katy Fike and Stephen Johnson, was created to help bridge this gap. Ms. Fike and Mr. Johnson set out to connect the elder care world with the venture capital and technology development communities. The results have been impressive. Aging 2.0 now boasts a global community of more than 15,000 people across 30-plus chapters in 15 countries.

The estate planning firm I am associated with was founded in Palo Alto, California – the very heart of Silicon Valley – and we have fostered and enjoyed a relationship with Aging 2.0 for more than two years. This relationship allows us to keep a close eye on new companies and developments that are relevant to our – and your – client community.

I recently had the good fortune of attending the Aging 2.0 Technology Expo, held November 19-20, 2015, in San Francisco. The companies represented at the Expo focused on software development in myriad areas, consumer products, education, health care services, financial management, and even artificial intelligence. A common focus among these companies was the innovative use of technology to improve long-term care for the elderly. A big part of this is allowing individuals to stay at home safely, and happily, longer.

While literally scores of new companies and initiatives are on the horizon, some stand out. Here I highlight a few companies that I believe have the potential to very positively affect long-term and home care services, in particular. Some are more mature than others. Some haven't yet hit the market with their services and are only in "beta" testing stages. Some of these companies may never reach consumers on a large scale. The ideas they represent, however, are worth understanding.

Care Academy (Careacademy.com): Care Academy provides online classes and certification programs for caregivers. Taught by world-class experts in the field, their classes help caregivers – professionals, or family – with specific best-practice tips in different areas of caregiving. The service is useful for home care agencies, which can ensure that their staff is uniformly trained and certified. But perhaps it is most helpful to the child of a parent who, thrust into the role of caregiver, can turn to Care Academy for information and guidance about "best practices." We so often encounter situations where an older individual experiences a precipitous decline in health and a child must step in to provide care at home. The child has no idea how to effectively provide and manage personal care. Care Academy potentially fills that gap.

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Bipartisan Group Recommends Major Changes to LTC System

A diverse group of long-term care policy experts and stakeholders has issued a report proposing major changes in the way long-term care is financed and delivered in the United States. The Long-Term Care Financing Collaborative's report proposes a new catastrophic long-term care insurance program as well as changes to Medicaid's long-term care benefit.

The Collaborative spent three years studying long-term care in the U.S. and although its members represent a broad range of ideological views, they were able to agree on a number of key recommendations to pay for and improve long-term care services.

The Collaborative's main recommendation is to establish a universal catastrophic insurance program aimed at providing financial support to those with high levels of long-term care needs over an extended period of time. The idea is for individuals with high levels of long-term

care needs to pay for their own care for one or two years and then receive a lifetime daily benefit. Individuals with lower lifetime incomes would be eligible to receive the catastrophic benefits sooner than individuals with higher incomes.

The Collaborative also recommends changing Medicaid law to provide the same services to institutional and non-institutional recipients. The goal would be to make Medicaid more flexible and responsive to the needs of individuals.

Other recommendations include encouraging private sector initiatives to revitalize long-term care insurance to lower costs and increase enrollment for non-catastrophic risks, and increasing retirement savings and improving education on long-term care costs.

To read the full report, go to: <http://tinyurl.com/elr-collaborative>.

Jibo (jibo.com): Jibo is a robotics company founded by the head of the MIT Robotics Lab, Dr. Cynthia Breazeale. Dubbed "the world's first family robot," Jibo is a new type of emotionally intelligent robot and platform to which numerous services can be "plugged in." The robot has the potential to help the elderly age in place – it can provide monitoring and emotional support. Jibo has raised nearly \$4 million through crowdfunding, and more than \$25 million in venture capital. You can view a video summary of some of the robot's uses and capabilities at <http://tinyurl.com/elr-jibo>

True Link Financial (Truelinkfinancial.com): True Link is a financial services company that provides easily-managed debit cards for individuals who receive public benefits. It can, for example, allow parents or trustees to give the beneficiary of a special needs trust the ability to independently spend money without interfering

with public benefits eligibility. The cards are also great tools for preventing financial abuse against elders who may suffer from a degree of cognitive impairment. True Link is looking to expand their services to provide additional financial management services to trustees of special needs trusts.

At-Home Monitoring

Several companies focus on the challenge of monitoring an individual's well-being while at home and without a caregiver. Many of these companies use sensors or voice check-ins with older individuals to keep track of their movements, activities, and medication compliance. Some also help older individuals more easily communicate with their families. They send reports or flag changes in behavior or health to family members or caregivers.

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EDITORS

Harry S. Margolis
Kenneth M. Coughlin
Development Editor
Joanne Cursinella

Customer Service

800-344-3734
Editorial Office
202-842-7355
800-955-5219
Sales Department
888-224-7377

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Newsletter Design

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In theory, these technologies can help to ensure that a parent is safer at home without an in-person caregiver. Some also provide social interactions for the individual at home, either through an artificial intelligence “avatar” or robot, or through connections to a community of fellow seniors.

Companies in this space include: Lively (*mylively.com*), AgeWell Biometrics (*agewellbiometrics.com*), Revolve Robotics (*revolverobotics.com*), Touchstream Solutions (*touchstreamolutions.com*), SmartCare (*smartcareconsultants.com*), and Care Angel (*careangel.com*).

'On Demand' Care Providers for Seniors

Several “on demand” service companies were also involved and demonstrated their wares. In theory, these companies provide “on demand” caregiving services to seniors or their families. Each has its own approach to screening caregivers and matching them with individuals or families. Some pay caregivers full salaries, while others treat them as 1099 contract workers. Some have raised tens of millions in venture capital money. It is unclear if they will be able to provide continuity in service providers to family members, but they offer easy-to-use interfaces for hiring caregivers or other on-demand services.

These companies include Honor (*joinhonor.com*), Home Hero (*homehero.com*), Carelinx (*carelinx.com*), and Envoy (*helloenvoy.com*).

There were also interesting companies offering innovative solutions in the areas of telemedicine, physical aids, fall prevention, and communication.

Needless to say, innovation abounds to address the growing issues of aging and long-term care. That being said, there is clearly a long way to go. Few of these solutions have yet made their way into the market and few lives have been measurably improved by these technologies. As one panelist put it, “We are in the Stone Age of using new technology to improve quality of life for seniors.”

As these technologies mature and come together, long-term care could be revolutionized. It is critical that elder law and estate planning attorneys keep a close eye on this field. There is no doubt that technologies and companies will evolve rapidly as the pace of innovation accelerates. No matter which companies or solutions emerge and survive, the opportunities to leverage technology to help clients to age better - and more safely - are truly incredible.

Mark R. Gilfix, Esq., is an attorney with the estate planning and elder law firm of Gilfix & La Poll Associates (www.gilfix.com), based in Palo Alto, California. His Twitter handle is @markgilfix

The Truths and Lies of Internet Marketing for Lawyers

By Kenneth M. Coughlin

Once upon a time, the idea was to get clients to a law firm's brick and mortar office through print advertising. Now the name of the game is to draw potential clients to a firm's virtual real estate, its website. Key to doing this is boosting a site's ranking in search results through search engine optimization (SEO), and a whole industry has grown up to help website owners improve their rankings.

But according to law firm marketing expert Conrad Saam, attorneys are getting “intimidated, overcharged, confused and downright lied to by marketing consultants and self-proclaimed search gurus” who see dollar signs but deliver “little (if any) value.”

In a recent ElderLawAnswers webinar titled “Truths and Lies of Internet Marketing,” Saam spent an information-packed hour separating fact from fiction regarding what works and what doesn't in online marketing. Saam is the founder of Mockingbird Marketing, an agency whose exclusive focus is on helping members of the legal profession improve their online marketing. Prior to Mockingbird, Saam was at Avvo when it had only eight

employees. He was the sole marketing person and played a key role in Avvo's ascendancy from concept to legal directory market leader through advanced search engine optimization strategies.

Myth: Websites Have to Be Expensive

Saam began his presentation by exploding the prevalent myth that websites have to be expensive. Most sites, he said, are in the \$3,000 to \$6,000 range. Saam said his firm, which he acknowledged is not cheap, builds sites starting at about \$5,000 and “it's pretty hard to do anything over \$6,000 or \$7,000 for a one-off website.” One way vendors try to wring extra cash out of a site is to have the customer pay a subscription fee and, in many cases, that fee can be expensive and lock you in for a long time. For example, the fee might be \$1,000 a month with a four- or five-year commitment, meaning that you're spending a huge amount of money for the site. Saam said monthly website costs should not exceed \$29 a month, and if they do, it's a problem. Check your monthly bill to see what you're paying for.

CMS: Medicaid Home Health Recipients Need Not Be Homebound

On February 2, 2016, the Centers for Medicare and Medicaid Services (CMS) will issue a final rule clarifying that Medicaid beneficiaries do not need to be "homebound" in order to receive home health services. In addition, the final rule, which revises Medicaid home health regulations (42 C.F.R. § 440.70(c)(1-2)), makes clear that Medicaid home health services are not limited to home settings.

According to Justice in Aging, which has been at the forefront of efforts to bring federal and state regulations into compliance with federal law in this area, the final rule "codifies longstanding agency policy, previously articulated in a 2000 letter to state Medicaid directors, that a Medicaid homebound requirement for home health services violates the Americans with Disabilities Act (ADA), as articulated in *Olmstead v. L.C.*, 527 U.S. 581 (1999)."

Despite this, some states have required that recipients be homebound.

Justice in Aging notes that the final rule does not change Medicare's homebound requirement, although CMS acknowledges the challenges this poses for dual eligible recipients and notes in its rule commentary that "we would permit states the flexibility to authorize additional hours of home health services to account for medical needs that may arise out of the home." (pg. 56)

The rule will take effect July 1, 2016. However, to ensure that states and providers are implementing the rule appropriately, CMS is delaying compliance with the rule for up to two years, depending on a state's legislative cycle.

For details from Justice in Aging, go to: <http://tinyurl.com/elr-homebound>

Another myth is that it's acceptable to rent a website. Some vendors will build you a site and register the domain name for you but they maintain the domain's ownership. In effect, you are paying the vendor to build up an asset (for example, by improving SEO) that you don't actually own. You can research the ownership of any domain name by going to *Whois.net*, and Saam said you should "panic if you find out that your vendor actually owns your domain." It is not uncommon, Saam noted, for a vendor to announce that its monthly fee is doubling and if you balk, the vendor will threaten to turn the domain over to your competitor across the street. "This sounds really shady but it has been done many, many times," Saam warned.

WordPress, WordPress, WordPress

What platform should you use for your site? Saam said that his "very strong bias" is that WordPress is the only platform that firms should consider. It is free and open-source, meaning that the software isn't copyrighted and is openly shared so that people can improve its design. "If you're on a proprietary platform," Saam said, "you are absolutely beholden to that vendor and you need their help to make changes in content in many cases." By contrast, Saam said that "you can do almost anything on WordPress" and if you need help you're backed by the WordPress community consisting of thousands of developers. "If you guys got through law school, you can learn how to publish on a WordPress site. It is not that hard," Saam declared.

But he said the big advantage of WordPress – its ubiquity – means that it is also very vulnerable to unauthorized access. "If you have an unprotected site and you don't regularly upgrade your version of WordPress, you are going to get hacked," Saam said. The way to avoid this is to have a WordPress site hosted by a managed WordPress host – a hosting provider that specializes only in WordPress and that can deal with security issues, such as by backing up the site every day and upgrading to the latest version. (Saam noted that ElderLawAnswers offers its members WordPress sites managed by a WordPress hosting service.)

Get Mobile

Observing that more than 50 percent of website traffic is now coming from mobile devices, Saam said that firm sites must be mobile-optimized. Google is now taking mobile-friendly design into account as a factor in ranking search engine results, meaning that fewer users are discovering your site if it's not optimized for mobile devices. Saam recommended Google's easy-to-use *Mobile-Friendly Test* to check the mobile optimization of your website.

Saam stressed that the firm's phone number should be in the website's header, and that ideally it is what's called a "sticky phone number" that will follow mobile device users around the site. "When you navigate the site," he said, it should be "insanely easy for someone to say, 'Hey, this woman seems to know what she's talking about, I'm

going to call her, and, by the way, I'm holding my phone and I can call her right now."

But Saam said he personally dislikes chat screens popping up on mobile devices because it covers up the content and site visitors want to talk to an attorney or no one.

Content Is No Longer King

Another myth, said Saam, is that "content is king." Content has been deposed, replaced by a concept called "content marketing."

The value of content, any content, "is a misperception that has been perpetuated by my industry," Saam said. "We have told you guys for the last three or four years that you need to write more content." Clients were being advised to blog as much as possible, for example. He referred to this as the "Field of Dreams fallacy": if you post it, they will come, which turns out not to have been the case. At this point, "the volume of content out there is absurd," Saam said. "So stop pouring money into vomiting out yesterday's news story in your blog. It doesn't work." In fact, he noted that not all successful law firm websites even have a blog attached to them.

What firms should be focusing their efforts on is content marketing – getting really great content in front of people who really want it. Content marketing, Saam said, involves developing outstanding "anchor content" and then finding the "raving fans" who deeply care about that content. You have to get creative in this effort and employ videos, infographics, polls and online petitions. Saam gave the example of an employment law firm that wrote about a case involving a worker who was fired for being pregnant. The firm put a petition up on its website calling for her reinstatement, and the petition proved popular. "People will start pointing links back to that content and the links will drive up SEO and you'll start hearing the phone ringing," Saam said.

Saam advised using *Google Analytics* to determine which pages on your website have generated traffic over the last six months. Pages that aren't producing traffic are just taking up space. If you are using a vendor to boost your SEO, ask them who they are getting your content in front of. You want it directed to the raving fans and if it isn't turning into traffic, or links, or both, it's not worth it. Links back to your website are the key to boosting a firm's Web presence and search engine ranking, Saam said. Good links are reputable local or national links from, for example, the legal industry and elder care sites. "If you're spending a lot of money with SEO," Saam said, "this is where you want your guys putting most of their efforts." Make sure the vendor isn't simply using an automated system to syndicate content out, Saam added. You need a more customized approach.

Website speed is also a factor in ranking, so check that your site isn't super slow.

Social Media and Online Reviews

Just as content is not an end in itself, Saam said that the value of social media has been "grossly overstated" and that it is hard for lawyers to make traditional social media marketing work for them. "It is very difficult to get people to like your law firm on Facebook and tweet about how great their experience was with your lawyer," he said. Moreover, social media does not help SEO; Google doesn't even have access to a lot of the Facebook information that would make it a ranking factor, Saam said.

Online reviews do matter for lawyers, however, and these reviews are increasingly showing up in local search engine results. Saam advised his listeners to make it a practice to ask clients for reviews, which essentially are "nothing more than a very public referral." But don't tell them where to write the review (Yelp! Avvo, etc.) because you want to make it as easy as possible for someone to leave you a review.

Of course, inviting online reviews risks the occasional negative one, which Saam advises should not simply be ignored. Leave a response, but don't call the reviewer a liar, which will just turn you into a finger-pointer for everyone reading that review. Saam offered some sample language as an alternative: "Dear reviewer: I am very sorry you had a bad experience with our firm. I take customer service extremely seriously. With respect to your specific issue, I want to make this right. I've instructed my front desk to forward your call directly to me and please call because I want to make this right."

Know Your Cost-Per-Client

Another myth is that more domains translate into more business. Not so, said Saam, who advised consolidating all content and links into a single domain, which will increase overall traffic. The one exception is if you operate in two distinct areas of practice, such as elder law and divorce law.

As for pay-per-click advertising (PPC), Saam said it doesn't have to be expensive, and he recommends Bing for most of his clients, as opposed to Adwords. With Bing you can get more clicks because there is less competition, and the cost-per-click is lower.

Wrapping up, Saam said it's important to know your cost-per-client for each of your advertising channels, such as Avvo, Adwords, and Findlaw. If you can do this, "you'll be smarter than 99 percent of law firms," Saam said. When asked how they found you, clients typically simply say "the Internet." Call tracking is one way to go beyond this and measure whether you're spending money wisely. When a call comes in, the call-tracking software

will rewrite the number based on which channel the call came from. You can then look at the phone numbers and determine that a particular channel generated X number of calls, turning into X number of clients.

That said, Saam reminded his listeners that according to an Avvo study done a few years ago, “responsiveness” was the top factor cited by consumers in hiring a lawyer. It was rated “very important” by 92 percent, well ahead of track record (80 percent), respect in the legal community (67 percent)

and cost (65 percent). Leads convert 22 times more often when contact is made in five minutes or less, Saam said.

To view Saam's free webinar, go to <http://tinyurl.com/elr-Saam>

Saam's webinar is part of an ongoing series of free webinars titled “The Elder Law Marketing Funnel.” For more information about the funnel and upcoming webinars, go to <http://tinyurl.com/elr-funnel>

KEEPING CURRENT

Alabama Trust Is Available Because Trustee Can Make Distributions ...

Alabama Medicaid Agency v. Hardy (Ala. Civ. App., No. 2140565, Jan. 29, 2016). An Alabama appeals court rules that a Medicaid applicant's special needs trust is an available resource because the trustee had discretion to make payments under the trust.

Denise Hardy inherited a one-half interest in a house and placed it in an irrevocable trust. The trust instrument stated that the trustee could distribute income to Ms. Hardy at the trustee's discretion and that the trust was intended to be a special needs trust. Ms. Hardy entered a nursing home and applied for Medicaid. The state determined that the trust was an available resource.

Ms. Hardy appealed, and an administrative law judge agreed that the trust was an available resource. Ms. Hardy appealed to court, arguing that the trust was not available because it was irrevocable and could not be altered. The trial court reversed the state's decision and ordered the state to pay Ms. Hardy benefits. The state appealed.

The Alabama Court of Civil Appeals reverses, holding the trust is an available resource. According to the court, a trust is an available resource if there is any circumstance under which payments can be made to the beneficiary and that in this case, “if the house was sold and half of the proceeds of the sale were placed in the trust, the trustee could then make distributions as required by the terms of [Ms.] Hardy's trust.”

For the full text of this decision, go to: <http://tinyurl.com/elr-Hardy>

... And New York Trust Is Available According to Same Reasoning

In the Matter of Frances Flannery v. Zucker (N.Y. Sup. Ct., App. Div., 4th Dept., No. TP 15-01033, Feb. 11, 2016). A

New York appeals court rules that a Medicaid applicant's trust is an available asset because the trustees have discretion to make distributions to her.

Frances Flannery was the beneficiary of a trust that granted her children, as the trustees of the trust, the authority to distribute as much of the principal as they felt in their discretion was necessary to provide for Ms. Flannery's health and welfare. Ms. Flannery applied for Medicaid and the state denied her benefits after determining the trust was an available asset.

Ms. Flannery appealed, arguing that the trust is not an available asset because her children refuse to make distributions of the principal to her. After a hearing, the state affirmed the denial of benefits, and Ms. Flannery appealed to court.

The New York Supreme Court, Appellate Division, affirms the denial of Medicaid benefits. According to the court, “because the principal of the trust may, in the discretion of [Ms. Flannery's] children be paid for [Ms. Flannery's] benefit,” the principal of the trust is an available asset “despite the fact that her children refuse to exercise their discretion to make such payments of principal.”

For the full text of this decision, go to: <http://tinyurl.com/elr-Flannery>

Anti-Lien Provision Applies Only To Living Medicaid Recipients

Estate of Hernandez v. Agency for Health Care Admin. (Fla. Ct. App., 3rd Dist., No. 3D14-2115, Feb. 17, 2016). A Florida court of appeals rules that Medicaid's anti-lien provision does not apply to a Medicaid lien imposed on a Medicaid recipient's property after the recipient dies.

Betsy Hernandez died of a rare condition. Her estate filed a wrongful death lawsuit against the hospital that treated her. The hospital agreed to settle the lawsuit for \$700,000 and Medicaid placed a lien on the settlement

to recoup medical expenses paid on Ms. Hernandez's behalf.

The Medicaid agency claimed it was entitled to \$262,500 before any wrongful death apportionment. The estate argued that the agency sought money allocated to survivors and that under *Arkansas Department of Health and Human Services, et al. v. Ahlborn* (547 U.S. 268 (2006)) [see *The ElderLaw Report*, June 2006, p. 6], states cannot assert a lien on portions of a settlement not allocated to medical expenses. The trial court denied the estate's motion for a hearing and the estate appealed.

The Florida Court of Appeals, 3rd District, affirms, holding that "the Medicaid Act's anti-lien provision does not apply to a Medicaid lien imposed against the property of a Medicaid recipient after her death." The court holds that *Ahlborn* and *Wos v. E.M.A.* (U.S., No. 12-98, March 20, 2013) [see *The ElderLaw Report*, May 2013, p. 6] do not apply because Medicaid's anti-lien provision applies only to living Medicaid recipients.

For the full text of this decision, go to: <http://tinyurl.com/elr-Hernandez>

State Cannot Retroactively Recover Medicaid Benefits from Estates

In re Estate of Gorney (Mich. Ct. App., No. 323090, Feb. 4, 2016). A Michigan appeals court rules that the state cannot recover Medicaid benefits from estates before the date that the estate recovery program was implemented.

Four individuals applied for Medicaid benefits sometime before 2010. They did not receive any notification about estate recovery at the time of their initial application. In 2011, the state received federal approval for its estate recovery program and the state determined that July 1, 2010 was the effective date. In 2012, the Medicaid recipients applied for Medicaid redetermination and received notice that the state could seek recovery for Medicaid benefits from their estates.

When the recipients died, the state filed claims against their estates to recover Medicaid benefits paid since July 1, 2010, but the estates denied the claims. The probate court rejected the state's claim and the state appealed. The estates argued that the state violated due process by recovering benefits paid since July 1, 2010, when the state did not notify them about the estate recovery program until 2012.

The Michigan Court of Appeals affirms in part, holding that while the notice provided to the estates in 2012 did not violate due process, the state could not recover benefits retroactive to July 1, 2010. According to the court, "by applying the recovery program retroactively to July 1, 2010, the Legislature deprived individuals of their

right to elect whether to accept benefits and encumber their estates, or whether to make alternative healthcare arrangements."

For the full text of this decision, go to: <http://tinyurl.com/elr-Gorney>

Claim Against CCRC That Sold Resident Annuity May Continue

Roscoe v. Elim Park Baptist Home, Inc. (Conn. Super. Ct., No. NNHCV146049541S, Dec. 22, 2015). A Connecticut trial court refuses to dismiss an unfair trade practices claim against a continuing care retirement community (CCRC) that sold a charitable annuity to one of its residents.

John Roscoe paid an entrance fee to move into a CCRC. Mr. Roscoe subsequently married and needed more liquid assets. The CCRC's director of planned giving convinced Mr. Roscoe to transfer money from his entrance fee account to purchase a charitable annuity. During the sales process, the CCRC allegedly represented that the annuity was a more valuable product than it actually was and the sales representative did not take into account Mr. Roscoe's financial circumstances or possible need for Medicaid planning.

After Mr. Roscoe died, his estate and widow filed several claims against the CCRC, including claims for violating fair trade practices, misrepresentation, and civil theft. The CCRC filed a motion to dismiss, arguing that Mr. Roscoe's estate did not allege substantially aggravating circumstances to support a fair trade practices claim.

The Connecticut Superior Court denies the motion to dismiss with regard to the unfair trade practices claim, the misrepresentation claim, and the civil theft claim. According to the court, there was evidence that the CCRC "misrepresented the nature of the agreement with [Mr. Roscoe] based on factual predicates that the [CCRC] knew or should have known were untrue." The court rules that while a standard breach of contract claim can't support a fair trade violation claim, the allegations of misrepresentation and civil theft were substantial aggravating circumstances.

For the full text of this decision, <http://tinyurl.com/elr-Roscoe>

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PRACTICE TIPS

Some Dos and Don'ts on Marketing to Baby Boomers

The oldest members of the baby boom generation – the 76 million Americans born between 1946 and 1964 – will be turning 70 this year. In a decade, all baby boomers will be at least 62 years old. Although boomers are a diverse group, there are some “don'ts” to avoid and “dos” to consider when marketing to them, according to Jim Gilmartin, principal at Coming of Age, a baby boomer and senior marketing agency. Gilmartin's list of 15 “don'ts” and five “dos” appeared in *Reverse Mortgage Daily*. Some of the advice seems pretty obvious and would apply to any consumer – *i.e.*, “don't be dishonest,” “don't rush them” – but some seemed worthwhile enough to pass along to an elder law readership. We follow Gilmartin's tips with some thoughts from an elder law attorney who wrote on the same subject in the *NAELA News*.

Tread delicately around the subject of age. Most boomers do not consider themselves “old” or that age will hold them back from doing anything. (“They don't want to be reminded of their age, but of their accomplishments and of their future,” echoes Steve Olenski, writing in a separate article in *Forbes*.) Avoid words like “senior” or “senior citizen.” Instead, use terms such as “customer,” “consumer” or “person.”

Gilmartin claims that 93 percent of older consumers regularly or occasionally use the Internet to research products prior to purchase. He advises against an overly busy website design with small type sizes, garish colors, and gratuitous design elements. At the same time, don't be stingy with content. He maintains that older people are avid readers and will appreciate the information you provide. But he says to avoid hype at all costs; older consumers have seen it all and are skeptical.

Gilmartin's ultimate message should not be difficult or new for elder law attorneys: treat baby boomers and older customers as individuals.

“Marketing needs to be adjusted to the facts that no two people perceive anything exactly the same way,” he says. “At a time when such terms as ‘permission marketing,’ ‘customer relationship management,’ and ‘online personalization’ are widely bandied about, more serious thought needs be given to the uniqueness of each of us and why we are unique.”

For Gilmartin's full list of dos and don'ts, go to: <http://tinyurl.com/elr-GilmartinBoomers>

Meanwhile, writing in the Oct./Nov. 2014 *NAELA News*, Chicago elder law attorney Ben Neiburger offered his own thoughts on attracting the baby boomer client. “For boomers,” Neiburger said, “it's not always about money—and if you can show that your practice is invested in their interests, you'll put some distance between yourself and the rest of the pack.” He suggests discovering ways to use the law to help boomers find meaning in their lives and follow their passions.

As part of a self-reliant generation, boomers make a great target market for document factories offering low-cost legal forms they can prepare themselves. But Neiburger stresses that boomers still value personal interactions and conversations that address their specific issues. “If you try to compete on cost, you'll always lose,” he says. “Legal services are not the same as socks and you are not Wal-Mart.”

Offering this personalized interaction should extend to a firm's website. Neiburger advises making the site about potential clients and their issues rather than “where you went to law school and how great your firm is.” This will show visitors (not just boomers) how you can help solve their problems.

To read Neiburger's article, go to: <http://tinyurl.com/elr-Neiburger>

Do you have some tips on marketing elder law or special needs services to baby boomers? Let us know! Write ken@elderlawanswers.com

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