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Are robo-advisors a boon or a burden to the legal profession?

ROBO-ADVISING: ANOTHER HEAVY BURDEN FOR

THE LEGAL PROFESSION?

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What the hell is it good for?

> Robert Lloyd (Engineer at the Advanced Computing Systems Division of International Business Machines), reacting to colleagues who insisted that the microprocessor was the wave of the future, c. 1968.

I. Introduction

Robo-advising is a relatively new form of advice, suggested as an efficient alternative to completing costly and seemingly routine tasks. In the financial industry, for example, robo-advisors are now permitted to assist investment advisors in the delivery of their services, within prescribed limitations.[iii] There is an extremely important distinction to be made between those few professions that have allowed this form of technology to be used and the legal industry: good lawyering requires a much higher level of interaction and communication than is permitted by robo-advising.

So what the hell is it good for in the provision of legal services?[iv]

Robo-advising and online legal services have not yet made much headway in the Canadian market, and with good reason – they are a burden to the legal profession, as they mask the complexities of good lawyering while at the same time ensuring that the robo-advisor has no responsibility for the inadequacies in the services that they offer. Let us look a little more closely at some examples.

II. Document Providers

The legal services that are now provided through websites such as *LegalZoom* offer different types of fill-in-the-blank legal documents – a gross oversimplification of the underlying legal issues that are being tackled.[v] While the benefits are obvious – filling in a form is much timelier and less costly than meeting with a lawyer – there are a multitude of disadvantages that will ultimately result in significant negative consequences for clients. It is disconcerting that these websites refer to themselves as *providers of personalized, online legal solutions* when the reality is that they are

simply fill-in-the-blank document providers.[vi] In fact, *LegalZoom*'s own disclaimer demonstrates the problem with this kind of rote legal assistance:

> "LegalZoom, its Services, and its forms or templates are not a substitute for the advice of an attorney […] at no time do we review your answers for legal sufficiency, draw legal conclusions, provide legal advice, opinions or recommendations […] the legal information on this site is not legal advice and is not guaranteed to be correct, complete or up-to-date […] LegalZoom takes no responsibility and assumes no liability for any content posted by you or any third party."[vii]

Now that was drafted by a real lawyer!

Another problem with these types of websites is that they do not offer much customization, as these documents are provided in a set format. Any lawyer knows that there is no one-size-fits-all approach to good advice. Each matter is different, even if the guiding principles are similar, and a seemingly small oversight can have disastrous consequences for a client. There is also the added risk that there will be errors in a completed document. Since there is no legal professional reviewing the results, even a minor mistake could result in a document being considered invalid by the courts. If these websites declare that they are not providing legal advice, who then takes responsibility for mistakes that arise from using these "efficient" services?

III.   Other Online "Advisors"

Particularly in the United States, websites such as *Rocket Lawyer* advertise their business as obtaining *legal advice in minutes* from lawyers and legal professionals.[viii]

Aside from the common risks that arise from using online services, such as information security, knowing the true identity and qualifications of the advisor and so forth, the person that is providing legal advice will be in no position to really understand the complexity of a client's situation within the confines of a brief conversation – to contend otherwise ignores the intricacies found in an attorney-client relationship. A limited conversation will result in legal advice that is uninformed at best, and misinformed at worst. Discussion and comprehension are *the* fundamental components to the attorney-client relationship and cannot be easily replaced.

According to Rocket Lawyer's disclaimer:

> "Your use of the services does not create an attorney-client relationship between you and Rocket Lawyer, or between you and any Rocket Lawyer employee or representative […] Rocket Lawyer provides a platform for legal information and self-help [and does] not review any information that you provide for legal accuracy or sufficiency, draw legal conclusions, provide opinions about your selection of forms [if applicable], or apply the law to the facts of your situation."[ix]

Again, drafted by another real lawyer!

These types of disclaimers help show that despite offering seemingly competent services, these websites will take no responsibility for the accuracy of the advice that they provide.

IV. Conclusion

Having visited these websites, we couldn't help but put ourselves in the position of a layperson. Despite the fact that their disclaimers make it quite clear that they are NOT providing legal services, the fact of the matter is that, intentionally or not, they are. When a person with little understanding of the legal system uses these websites, how can they possibly find a potential error or even question the validity of the advice provided? Further exacerbating the problem is the implied suggestion that the legal process can be reduced to fill-in-the-blank solutions. The complexities of legal problems are an inevitable reality establishing a need for trained legal professionals to adequately represent and counsel their clients.

Suggesting that these services are a heavy burden to the legal profession is not because we are "technophobic". It arises from our concern for both clients and the reputation that this profession has strived to build. It will harm the public interest if too many clients create poor documents or receive inadequate robo-advice. We suppose it may ultimately create more work for lawyers trying to fix these problems – "but what the hell good is that"?

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[iii] Although an interactive robo-advising website may be used to collect know-your-client ("KYC") information, this information must be reviewed by an advisory representative ("AR") and the obligations of portfolio managers ("PMs") remain the same as for any other PM. The AR must then ensure that sufficient KYC information has been gathered to support the PM firm's obligation to make suitability determinations for the client.
[iv] When we talk about lawyers, good lawyering, legal advice and legal services, we include licenced paralegals as well as lawyers throughout.
[v] www.legalzoom.ca; www.legalzoom.com.
[vi] www.legalzoom.com.
[vii] www.legalzoom.com/legal/general-terms/terms-of-use.
[viii] www.rocketlawyer.com.
[ix] www.rocketlawyer.com/terms-and-conditions.rl.