



WILL AVVO DISRUPT IMMIGRATION LAW PRACTICE LIKE UBER HAS DISRUPTED TAXIS?

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Plenty of traditional industries are being disrupted these days. [Uber has disrupted the taxi industry](#) and [Airbnb has done the same](#) with the hotel industry. The legal industry is not immune from disruption and there are likely to be seismic changes in the practice of law in the near future. This has already happened with [Legal Processing Outsourcing](#), but further changes are expected.

With the proliferation of low cost do it yourself websites and services, the American Bar Association adopted the [ABA Model Regulatory Objectives for the Provision of Legal Services](#) on February 6, 2016, which includes among its objectives the protection of the public along with the meaningful access to justice as well as affordable and accessible legal services. The ABA resolution gives a green light to state bar regulators to implicitly give recognition to such services by regulating them, resulting in more lawyers collaborating with Non-Legal Organizations (NLOs). This in turn would challenge the current ethical framework that precludes lawyers from fee splitting or entering into partnerships with non-lawyers under ABA Model Rule 5.4.

[Avvo](#) has already started challenging the status quo by rolling out [Avvo Legal Services](#), which offers a fixed-fee and limited scope legal services, including immigration services, through a network of attorneys. One of the immigration services Avvo offers is a “family based green card” for \$2995 that involves preparing and filing the requisite forms, but no representation at an adjustment of status interview or to respond to a Request for Evidence. The consumer pays \$2995 to Avvo directly, but may choose the attorney in the Avvo network that they want to work with. That attorney has 24 hours to directly contact the consumer/client, and do the work as they would any other

client. When the work is completed, Avvo releases the funds to the attorney, and in a separate transaction withdraws from the attorney's account a \$400 marketing fee .

Under this unique business model, the immigration attorney is contracting with Avvo as a vendor to gain clients and business through its superior marketing reach. Avvo views this new service as benefitting both lawyers and clients. The lawyer will rely on Avvo to get business and also get paid easily, without keeping track of billable hours or worrying about trust accounts. It would also help lawyers build their practices as it would lead to further work by the same client, according to Avvo. The client is also benefitted as s/he will get access to a legal service that is both affordable and fixed, and will also understand exactly what legal service is being purchased. It should be noted that while ABA Model Rule 1.2(c) allows a lawyer to limit representation and unbundle services, the limitation must be reasonable and the client must give informed consent.

The key ethical issue that first strikes the astute observer is whether this is an impermissible fee splitting agreement between the attorney and Avvo. Josh King, Avvo's general counsel, [has argued](#) that it is not fee splitting because the marketing fee is paid as a separate transaction and is not a percentage of the legal fee. Is this any different from paying for Google AdWords or a fee to run a radio commercial? On the other hand, the client pays Avvo \$2,995 and Avvo indirectly keeps a part of it, which is a percentage of the fee that the client has paid towards processing the green card case. And so, if something looks like a duck, swims like a duck and quacks like a duck, it is indeed a duck; and in this instance, it is indeed fee splitting. Avvo was started by Mark Britton, former General Counsel to Expedia. Avvo is like Expedia—if I am buying an airline ticket through Expedia I am paying Expedia but they are sending it to the airline minus a fee for the service. Whether ABA Model Rule 5.4 allows this, we can't say for sure, but Avvo is betting several hundred thousand dollars that they do. Avvo also claims that the consumer is not being harmed and any restriction to its business model could also be an infringement of lawyer free speech. The jury is not yet out on whether this business model is ethical, but there are many immigration attorneys who are part of the Avvo network to provide an assortment of unbundled immigration legal services.

Will Avvo disrupt the traditional legal model where a client seeks out an immigration lawyer based on his or her reputation rather than on a web-based network, and the attorney sets the fee? This author bets that Avvo is unlikely to

disrupt the traditional model, at least not as yet, even if it is ethical. A “family-based green card” is not like buying an airline ticket, where you know that a seat in economy be it in row 25 or row 45 will be the same. If the airplane goes through turbulence, the ride will be equally bumpy in any seat of the aircraft. But unlike an airline ticket, there are many traps and pitfalls in family-based immigration practice, even when it appears relatively straight forward. One’s eligibility for adjustment of status based on a marriage to US citizen spouse is also subject to variables. If the client’s arrival in the US was not through a straight forward inspection at a port of entry, then the case immediately becomes more complex. If the client is potentially inadmissible for a host of reasons, including potentially claiming to be a US citizen when seeking employment many years ago, that too would throw out of the window the Avvo \$2,950 the family based green card package. The client will disappointingly realize that the Avvo family green card package and price is virtually meaningless, and would rather seek out an attorney who has the reputation and expertise to handle difficult family-based immigration cases. There are other variations even if the client appears *prima facie* eligible to adjust status. The marriage may have been *bona fide* at its inception, but the spouses are quarreling and living separately, and still desire to cooperate on the green card for the sake of the children. This too requires the agile immigration attorney to appropriately advocate for the client by educating the USCIS examiner, who may at first cry foul, that the marriage presently need not be viable so long as it was *bona fide* at its inception. See *Matter of Boromand*, 17 I&N Dec. 450 (BIA 1980); *Matter of McKee*, 17 I&N Dec. 332 (BIA 1980).

If I am proved wrong and Avvo catches on and attorneys on Avvo attract more clients than those who are not, then others can do it better than Avvo rather than remain complacent like Blackberry did, especially a non-profit bar association that may have reputed attorneys on its roster, and be able to provide the adequate disclaimers and caveats. But if there are too many disclaimers and caveats, which is generally the case with an immigration matter, then I can still see a client preferring to seek out the best attorney for his or her complex family-immigration case, where a fixed price may not be an issue, rather than resort to the Avvo model. There are bound to be other disruptions in the legal industry, such as non-lawyers being licensed to handle certain immigration cases or perhaps someday robots with artificial intelligence displacing the lawyer, but Avvo may not be as disruptive to immigration lawyers

as Uber has been to taxi drivers.