

🖨️ [Click to print](#) or Select '**Print**' in your browser menu to print this document.

Page printed from: <https://www.law.com/legaltechnews/2018/03/19/3-times-the-law-pushed-back-on-legal-technology/>

# 3 Times the Law Pushed Back on Legal Technology

From bar associations taking on online legal services to concerns over COMPAS' objectivity, legal technology isn't always in lockstep with the law.

By Rhys Dipshan | March 19, 2018

From fears over artificial intelligence [replacing](#)



(<https://www.law.com/corpocounsel/sites/corpocounsel/2018/02/07/legal-ops-leaders-less-afraid-of-ai-but-many-still-havent-adopted-tools/>) lawyers to debates over what role (<https://www.law.com/legaltechnews/2018/02/28/retired-federal-judges-titans->

[of-e-discovery-debate-the-review-revolution/](#)) automation should play in discovery, the disruption legal technology brings is not always welcomed by attorneys or the courts.

And sometimes, legal technology can push up against the law itself. Here is a look at three times the law has challenged the changing legal industry:

## 1. Online Legal Services v. Bar Associations

By offering flat-fee marketplaces for legal services, online legal services providers like Avvo Inc., LegalZoom.com Inc. and Rocket Lawyer Inc. are seeking to extend (<https://www.law.com/ctlawtribune/almID/1202791905211/?mcode=1202615402746&curindex=1>) the on-demand economy to the legal sector.

But while such startups have garnered the interest of investors (<https://www.cbinsights.com/research/legal-tech-startup-funding-2016/>) and consumers alike, the traditional legal industry hasn't been so welcoming. Numerous state bar associations, including those in Ohio, South Carolina, Pennsylvania and New Jersey, questioned the legality of some of these services' marketing and referral fees.

In New Jersey, such concerns were confirmed by officials in the state's high court. A June 2017

([AI%20technology,%20for%20instance,%20is%20powering%20video%20editing%20a](#) joint opinion by three New Jersey Supreme Court committees advised restricting state lawyers from participating in Avvo, LegalZoom, and Rocket Lawyer.

The committees advised blocking LegalZoom and Rocket Lawyer on the grounds their legal service plans "are not registered with the Administrative Office of the Courts in accordance with Rule of Professional Conduct 7.3(e)(4)(vii)."

But their problems with Avvo were much broader. The committees noted that Avvo's "programs improperly require the lawyer to share a legal fee with a nonlawyer in violation of Rule of Professional Conduct 5.4(a), and pay an impermissible referral fee in violation of Rule of Professional Conduct 7.2(c) and 7.3(d)."

The online legal services startups have since asked the New Jersey Supreme Court to weigh in on the ethics [concerns \(https://www.law.com/njlawjournal/2018/03/05/will-nj-supreme-court-take-up-avvo-ethics-case/\)](https://www.law.com/njlawjournal/2018/03/05/will-nj-supreme-court-take-up-avvo-ethics-case/). But for the time being, they are not worried the committee's opinions will impact their businesses.

"I don't see this as even a bump in the road. We'll be right back to serving our customers," Ken Friedman, vice president of legal and government affairs at LegalZoom, [told](https://www.law.com/legaltechnews/sites/legaltechnews/2017/07/11/nj-says-no-court-decision-renews-online-legal-services-debate/)

[\(https://www.law.com/legaltechnews/sites/legaltechnews/2017/07/11/nj-says-no-court-decision-renews-online-legal-services-debate/\)](https://www.law.com/legaltechnews/sites/legaltechnews/2017/07/11/nj-says-no-court-decision-renews-online-legal-services-debate/) Legaltech News.

Avvo, which was recently [acquired](https://www.law.com/legaltechnews/sites/legaltechnews/2018/01/11/internet-brands-to-acquire-on-demand-legal-services-company-avvo/)

[\(https://www.law.com/legaltechnews/sites/legaltechnews/2018/01/11/internet-brands-to-acquire-on-demand-legal-services-company-avvo/\)](https://www.law.com/legaltechnews/sites/legaltechnews/2018/01/11/internet-brands-to-acquire-on-demand-legal-services-company-avvo/) by media and software services organization Internet Brands Inc., has expressed similar [confidence](https://www.law.com/legaltechnews/sites/legaltechnews/2017/07/11/nj-says-no-court-decision-renews-online-legal-services-debate/) [\(https://www.law.com/legaltechnews/sites/legaltechnews/2017/07/11/nj-says-no-court-decision-renews-online-legal-services-debate/\)](https://www.law.com/legaltechnews/sites/legaltechnews/2017/07/11/nj-says-no-court-decision-renews-online-legal-services-debate/), and expects to grow its offerings in the near future.

## 2. Tikd's Florida Fight

Legal technology apps that help users deal with parking tickets have been quickly [catching \(https://www.law.com/legaltechnews/sites/legaltechnews/2017/07/17/the-donotpay-dilemma-can-chatbots-provide-access-to-justice-without-a-lawyer/\)](https://www.law.com/legaltechnews/sites/legaltechnews/2017/07/17/the-donotpay-dilemma-can-chatbots-provide-access-to-justice-without-a-lawyer/) on

with consumers across the globe. But one Florida-based ticket app's popularity ran straight into litigation—and a fight with the state's bar association.

Launched by a nonlawyer entrepreneur, Coral Gables, Florida-based [Tikd](https://www.law.com/dailybusinessreview/almID/1202781518963/Who-You-Gonna-Call-Developer-Hopes-Its-TIKD-Traffic-Ticket-App/?mcode=0&curindex=0&curpage=ALL) (<https://www.law.com/dailybusinessreview/almID/1202781518963/Who-You-Gonna-Call-Developer-Hopes-Its-TIKD-Traffic-Ticket-App/?mcode=0&curindex=0&curpage=ALL>) receives parking tickets from its customers via a smartphone app. From there, the company [hires](https://www.law.com/dailybusinessreview/almID/1202781518963/Who-You-Gonna-Call-Developer-Hopes-Its-TIKD-Traffic-Ticket-App/?mcode=0&curindex=0&curpage=ALL) (<https://www.law.com/dailybusinessreview/almID/1202781518963/Who-You-Gonna-Call-Developer-Hopes-Its-TIKD-Traffic-Ticket-App/?mcode=0&curindex=0&curpage=ALL>) attorneys from one of the 17 Florida counties in which it operates to get the tickets dismissed.

For outsourcing all the legal work, Tikd charges a fee of around 15 to 30 percent lower than the driver's fine. And if it is unsuccessful in getting the infraction resolved, the company will pay the ticket and refund their fee.

Tikd's business model, however, isn't earning any accolades from The Ticket Clinic, a law firm that has practiced traffic ticket law in Florida for 30 years. The firm [sued](https://www.law.com/dailybusinessreview/almID/1202785110831/the-ticket-clinic-ticketfighting-app-locked-in-legal-battle/?back=law) (<https://www.law.com/dailybusinessreview/almID/1202785110831/the-ticket-clinic-ticketfighting-app-locked-in-legal-battle/?back=law>) Tikd claiming it was violating Florida Bar rules around advertising, splitting fees with nonlawyers, and paying fines or costs for clients, which lawyers are not allowed to do.

Tikd [countersued](https://www.law.com/dailybusinessreview/sites/dailybusinessreview/2017/11/08/ticketfighting-startup-sues-florida-bar-and-ticket-clinic-for-11m/?back=law) (<https://www.law.com/dailybusinessreview/sites/dailybusinessreview/2017/11/08/ticketfighting-startup-sues-florida-bar-and-ticket-clinic-for-11m/?back=law>) The Ticket Clinic for \$11 million, alleging the law firm was trying to kick it out of business.

Both cases were withdrawn when the Florida Bar announced its investigation into Tikd. But when the bar issued an [injunction](https://www.law.com/dailybusinessreview/sites/dailybusinessreview/2017/12/13/florida-bar-votes-to-file-litigation-against-ticket-fighting-startup/) against the tech company, on grounds that it was an unlicensed practice of law, Tikd [sued](https://www.law.com/dailybusinessreview/sites/dailybusinessreview/2017/11/08/ticket-fighting-startup-sues-florida-bar-and-ticket-clinic-for-11m/?back=law) both the bar and The Ticket Clinic for \$11 million in federal court.

Responding to the lawsuit, the Florida Bar claimed immunity arguing that it was an extension of Florida's judicial branch. In an unsolicited [statement of interest](https://images.law.com/contrib/content/uploads/documents/392/15693/DOJ-statement-Tikd.pdf), however, the U.S. Department of Justice rejected the bar's argument, and voiced [support](https://www.law.com/dailybusinessreview/2018/03/15/doj-weighs-in-on-florida-bars-battle-with-traffic-ticket-startup-tikd/) for Tikd's place in the legal market.

### 3. COMPAS Corrections

One of the most controversial pieces of legal technology to date, the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) risk management tool assesses recidivism risk for those charged with a crime.

Using a [questionnaire](https://www.documentcloud.org/documents/2702103-Sample-Risk-Assessment-COMPAS-CORE.html) and data on a person's family history, socioeconomic situation and other factors, COMPAS comes up with a score that is intended to help judges, probation and parole offices rule on sentencing matters.

But the technology has been accused of being anything but an objective score taker when it comes to recidivism. A [ProPublica](https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-)

sentencing) investigation found COMPAS to be biased against offenders who were African-American, assigning them a higher risk of recidivism than white offenders.

What's more, research

(<https://www.law.com/legaltechnews/sites/legaltechnews/2018/01/18/man-vs-machine-maybe-computers-arent-the-best-at-predicting-recidivism/>) from

Dartmouth College found that COMPAS' accuracy at predicting recidivism is widely overstated, and the platform is no more accurate than human reviewers with "little or no criminal justice expertise."

It's little surprise then that the use of COMPAS has been challenged in court.

In 2013, Eric Loomis, who was arrested in Wisconsin for eluding the police and driving a stolen vehicle in connection with a drive-by shooting investigation, was sentenced to six years in prison.

He appealed the ruling, arguing that the use of a COMPAS score in his sentencing violated his due process rights. The appeal eventually made it up to the Wisconsin Supreme Court, whose seven-member body unanimously ruled (<https://www.wicourts.gov/sc/opinion/DisplayDocument.pdf?content=pdf&seqNo=171690>) that the use of COMPAS was legal.

But the court was equivocal in its support for COMPAS. "Although we ultimately conclude that a COMPAS risk assessment can be used at sentencing, we do so by circumscribing its use," it wrote.

The court noted that COMPAS "may not be considered as the determinative factor in deciding whether the offender can be supervised safely and effectively in the community."

What's more, it called for informing courts on the limitations of the technology. "Providing information to sentencing courts on the limitations and cautions attendant with the use of COMPAS risk assessments will enable courts to better assess the accuracy of the assessment and the appropriate weight to be given to the risk score."

---

**Copyright 2018. ALM Media Properties, LLC. All rights reserved.**