

Is It Time to Go Paper-Less?

Motivated by environmental concerns, improvements in technology, and the ever-increasing cost of storage, many law firms are exploring the option of going paper-less. Implementing a program to scan and digitally store client files can be daunting. Investing in appropriate hardware and software is just the beginning. The process itself requires organization, protocols, and commitment to training. Once a program is in place, you may find that you or your staff are devoting more time than expected to the conversion. So is it worth it to go digital? Consider the following:

- How much do you spend each year on storage and maintenance of your paper filing system? Include the cost of folders, binders, paper, labels, notebook dividers, related office supplies, photocopies, filing cabinets, desk storage, shelving, boxes, annual storage fees, on-demand delivery and retrieval fees, and destruction fees.
- How much non-billable time is consumed by maintaining or overseeing off-site storage? Include time spent preparing files for storage, delivering files to storage, retrieving files from storage, reviewing files prior to destruction, contacting clients, and updating your file inventory.
- Are you frequently on the hunt for misplaced files or papers? A lawyer who spends 15 minutes a day looking for documents that are not properly filed will lose \$12,300.75 in billable time by year-end. (“Unearthing Your Hidden File Management Costs,” by David Bilinsky and Laura Calloway, *Law Practice Magazine*, American Bar Association, March 2007. The cost calculation is based on average

workdays, billable hours, and rates. See *Oregon State Bar 2007 Economic Survey*, www.osbar.org/_docs/resources/07EconSurvey.pdf.)

- How much office space do you devote to your paper filing system that could be used for other purposes? In some firms, the estimate is as high as 150 linear feet per lawyer, if closets, workrooms, conference rooms, lawyer offices, and secretarial space are included. If you have never sent closed files off-site, as much as 30% to 40% of your available space may be devoted to storing paper records. For smaller offices in urban areas of Oregon, as much as \$150 to \$300 of your monthly rent payment may be attributed to keeping paper. (*The Lawyer’s Guide to Records Management and Retention*, by George C. Cunningham and John C. Montaña, American Bar Association, 2006.)

Converting to a digital filing system can help you recoup these costs and recapture your billable time. Beyond the immediate savings to your pocketbook, going paper-less has other benefits:

- Records are maintained on-site, accessible to everyone.
- The entire file is in one place.
- Client requests can be met almost instantaneously. Clients will no longer have to wait until the file is retrieved from storage.
- Internal requests can be met quickly. You will no longer have to wait to retrieve a file to rule out a conflict of interest.
- You will be better prepared for electronic filing (e-filing) as it expands to state court, administrative agencies, and other ven-

Continued on page 2

DISCLAIMER

IN BRIEF includes claim prevention information that helps you to minimize the likelihood of being sued for legal malpractice. The material presented does not establish, report, or create the standard of care for attorneys. The articles do not represent a complete analysis of the topics presented, and readers should conduct their own appropriate research.

ues. If you are a federal practitioner, you are already well-schooled in the tips and traps of e-filing. If you are not an experienced e-filer, you may be in for a bumpy ride. In August 2008, the Oregon Supreme Court began accepting voluntary e-filing of all documents. The goal is to expand e-filing throughout all Oregon courts over a five-year period, provided funding is obtained. (“Oregon eCourt Implementation,” *In Brief*, Issue 105, August 2008.)

- The paper won’t disappear. If you want a hard copy of any document, just hit “print.”

So what are the drawbacks? Starting from scratch, hardware, software, and technology support (including training) can easily run \$2,000 to \$5,000 for a small office. Expect complete implementation of a full-scale paper-less system to take several years, not months. For those brave enough to take the plunge, read about one firm’s journey in *Our Paperless World*, available on the PLF Web site. (See Additional Resources on page 5.) Here are some practical tips:

Staff

Involve staff throughout the process: selecting technology, establishing policies and protocols, and implementing security measures. As the end users, staff can offer valuable insight into the flow of information and paper within the firm. Staff will also be more accepting of the transition to digital files if their concerns and input are considered along the way.

Implementation will not succeed unless you invest in training for *everyone*. This means a commitment up-front and on an ongoing basis as you experience turnover. Be prepared to meet this need internally, or find a qualified technology consultant who can help.

Technology

Buy the best scanner you can afford. Fujitsu (www.fujitsu.com), Visioneer (www.visioneer.com), and Xerox (www.xeroxscanners.com) are all good sources for scanners. Purchase separate flatbed and sheet-fed scanners, or buy a scanner with both features. A sheet-fed scanner will help you scan large quantities of standard-sized documents quickly. A flatbed scanner allows you to place and scan small or delicate items that should not be run through an automatic document feeder.

Instead of printing to paper, “print” to Portable Document Format (PDF). PDF captures documents as they appear on-screen with fonts and formatting intact. Although there are other PDF writers, Adobe Acrobat is the gold standard. Saving digital file content using Adobe’s archival standard

(PDF/A) ensures that *files created in earlier versions of Acrobat are guaranteed to be readable in future versions of PDF*. This is not a given if you attempt to keep files in their native application (e.g., Microsoft Word® and WordPerfect®). In addition, PDF files are accessible to anyone who downloads the free Adobe Reader software. Firms using Acrobat 9 Pro or Pro Extended can take advantage of the many tools specific to the legal profession. (See “Technology Tips – Using Acrobat 9 in the Law Office,” Beverly Michaelis, *In Brief*, Issue 105, August 2008.)

Purchase practice or document management software to facilitate organization of data and capture of digital file material (scanned documents as well as e-mail, Web pages, graphics, video files, audio files, photos, word processing documents, and spreadsheets). Options for practice management software include Amicus (www.amicusattorney.com), Practice Master (www.tabs3.com), ProLaw (www.prolaw.com), and Time Matters (www.timematters.com). Some of the more popular document management programs are Worldox (www.worldox.com), Interwoven Worksite (formerly iManage) (www.interwoven.com), Open Text eDocs (formerly Hummingbird) (www.opentext.com), and NetDocuments from LexisNexis® (<http://law.lexisnexis.com/net-documents>). If you are unsure how to proceed, hire a computer consultant to assist in the selection, installation, and customization of both hardware and software.

Learn and use desktop search engines built into your computer’s operating system to find documents (Windows Desktop Search or Mac’s Searchlight).

Policies and Protocols

Develop file naming and organizing protocols. Using a standardized filing system for paper allows us to find what we want when we need it. The same applies to your digital filing cabinet.

Scan all *incoming* documents to PDF. Set your scanner’s resolution to 150 – 300 dots per inch (dpi), sufficient to produce good, clean copies of your original. (Although lower resolutions produce smaller PDF files, the trade-off may not be worth it. When in doubt, try a test scan before saving a document permanently to your system.)

Print all *outgoing* work product to PDF, including e-mails.

Segregate PDFs from native application files. Create two folders for each client matter: one to contain all the PDFs and one to contain native application files (word processing documents, spreadsheets, presentations, jpegs, html files, etc.). The PDF folder becomes the client’s official digital file. The native application folder contains working documents that

you can continue to use and manipulate.

Use case or document management software as an interface to help you organize, access, sort, and view your PDF files.

Establish a retention policy for your digital files. Regardless of how files are kept, the PLF recommends that all client files be kept for a minimum of 10 years. (See the PLF practice aid, File Retention and Destruction, available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to File Management.)

Review the PLF practice aid, Checklist for Imaging Client Files and Disposing of Original Documents, for additional steps, including what to do with your paper once it has been scanned. (See Additional Resources below.)

Clients

Inform clients of your digital storage practices. Consider providing clients with the original paper file after it has been scanned. This will save destruction fees and give existing clients a complete copy of their file to date. Explain how you will provide documents to clients in the future, both in the regular course of business and in the event the client requests his or her file. Update your fee agreement or engagement letters to reflect these policies and procedures.

When clients leave your firm, be prepared to provide them with a complete copy of their digital file in a format they can access. This may mean printing the file. With few exceptions, the client is entitled to the entire file. (See Client Files Revisited, available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to File Management. See also, “You Have to Share – The format of documents doesn’t change a lawyer’s duty to release them to a client,” by Kathryn A. Thompson, *ABA Journal*, September 2008. www.abajournal.com/magazine/you_have_to_share/.)

Security

Use commonly recommended security measures such as routers, firewalls, anti-virus software, password-protected access, and the like. If you are not well-versed in security issues, take advantage of the ABA’s free Legal Technology Resource Center, open to members and nonmembers: www.abanet.org/tech/ltrc. Useful articles and books can also be found through the Law Practice Management Section: www.abanet.org/lpm/home.shtml. If you are still uncertain how to proceed, hire an expert.

Take steps to ensure that documents stored electronically cannot be inadvertently modified or destroyed. This can be

done through file property settings in Adobe Acrobat or at the network level by controlling access to folders.

Once your system is up and running, consider enabling remote access for lawyers – and possibly clients to their own files.

Back up, back up, back up!

Beyond Client Files

Once a successful system is in place for client files, consider converting administrative and accounting records to paper-less record-keeping (such as scanning bank deposits rather than copying them and e-mailing billing statements to clients with e-mail accounts).

Is It Paperless or Paper-Less?

Going digital does not mean that all paper will go away. Many practitioners will still prefer to hold paper in their hands, especially in the drafting or review stage. Many clients lack digital access and will continue to need paper copies. A national survey conducted in 2008 found that 33% of U.S. heads of household had never used a computer to create a document, 18% of households are without Internet access, and 20% of all heads of household have never sent an e-mail. (Survey: One-Fifth of Americans Have Never Used E-Mail, by Steven Musil. [CNETnews.com, May 18, 2008.] http://news.cnet.com/8301-10784_3-9946706-7.html?tag=mncol.)

BEVERLY MICHAELIS
PLF PRACTICE MANAGEMENT ADVISOR

Continued on page 4

Additional Resources

The following are available on the PLF Web site, www.osbplf.org, as a resource to those who are ready to go paper-less:

Practice Aids

- Checklist for Imaging Client Files and Disposing of Original Documents (Technology)
- Digital Signatures (Technology)
- Mail Handling – Paperless Filing System (Mail Handling)
- Our Paperless World (Technology)
- Retention of Electronic Records (Technology)

***In Brief* Articles**

- Document Destruction – June 2005
- Four Simple Ways to Save Client E-Mail – November 2006
- How to Back Up Your Computer (and Application Service Providers) – February 2006
- Resources for Backing Up Your Computer – February 2006
- Technology Tips: Using Acrobat 9 in the Law Office – August 2008