

2015

**JERRY MIRZA MEMORIAL
RISK MANAGEMENT CONFERENCE**

Tomorrow is TODAY:

A Day in the Life of a Technology
Oriented Law Firm



ISBA Mutual
Lawyers' Malpractice Insurance

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JERRY MIRZA MEMORIAL RISK MANAGEMENT CONFERENCE

Tomorrow is TODAY: A Day in the Life of a Technology Oriented Law Firm

FAIRVIEW HEIGHTS

TUESDAY, OCTOBER 13, 2015
1:00 PM – 4:30 PM

FOUR POINTS BY SHERATON

618 622-9500
319 Fountains Parkway
Fairview Heights, IL

BLOOMINGTON

WEDNESDAY, OCTOBER 14, 2015
1:00 PM – 4:30 PM

CHATEAU HOTEL AND CONFERENCE CENTER

309 662-2020
1621 Jumer Drive
Bloomington, IL

PLEASE NOTE: Lunch is not provided.

12:00 PM – 1:00 PM CHECK IN Must be pre-registered by September 30, 2015

1:00 PM – 4:30 PM PROGRAM

DISCLAIMER: This material includes loss prevention techniques designed to reduce the likelihood of being sued for legal malpractice. It is not the intent of these materials to suggest or establish practice standards or standards of care applicable to a lawyer's performance in any given situation. Rather, the sole purpose of these materials is to assist lawyers insured by ISBA Mutual in avoiding legal malpractice claims, including meritless and frivolous claims. To that end, the intention is to advise lawyers to conduct their practice in a manner that is well above the accepted norm and standards of care established by substantive legal malpractice law. The recommendations contained in these materials are not necessarily appropriate for every lawyer or law firm and do not represent a complete analysis of each topic.

OAKBROOK TERRACE

THURSDAY, OCTOBER 15, 2015
1:00 PM – 4:30 PM

DRURY LANE

630 530-8300
100 Drury Lane
Oakbrook Terrace, IL

CHICAGO

FRIDAY, OCTOBER 16, 2015
1:00 PM – 4:30 PM

IIT CHICAGO-KENT COLLEGE OF LAW

312 906-5000
565 West Adams Street
Chicago, IL



Tomorrow is TODAY: A Day in the Life of a Technology Oriented Law Firm

Today's client expects their lawyer to be as technologically advanced, if not more so, than they are. Clients expect their lawyers to be able to communicate electronically; save money by using technology to easily, quickly and securely store and share documents and information with them and others; to use legal research and technological tools to represent them in and outside of the office. Clients also want you or anyone else in your office to be able to answer questions regarding their file if and when they call, not "I'll pull your file and get back to you tomorrow." The bottom line is that if you are not taking advantage of technology in your law practice then you are not practicing law as effectively and efficiently as possible. This seminar will discuss today's technology that is being used by thousands of lawyers and firms throughout the US to serve their clients. It will show you a "day in the life" of a technologically oriented lawyer, using tools that are readily available. Here is what you can expect to learn from this seminar:

- **How to use available technology to improve efficiency and effectiveness in your office and operations while avoiding ethical and technology pitfalls**
- **How all of your information, including file details and documents, can be available wherever you have an internet connection**
- **What are the potential ethical and technological pitfalls and what you need to know about using this technology consistent with the Rules of Professional Conduct**
- **How to use Fastcase, the legal research service that is free to all ISBA and ISBA Mutual Insurance members, in the office and on the road on your mobile device**
- **How you can use technology in Court and elsewhere for presentation, electronic discovery, trial and more**
- **What apps and programs are available for Apple, Windows and Android that you should consider using**



Author Profile: Nerino J. Petro, Jr.



Attorney Nerino Petro (IL & WI) is the Chief Information Officer for Holmstrom & Kennedy, P.C., in Rockford, Illinois where he is responsible for all in-house technology and training, recommending and implementing new technologies, and providing direct support in the office and at trial.

Nerino served as the first Practice Management Advisor for the State Bar of Wisconsin's Practice411™ Law Office Management Assistance Program for eight years helping members operate their offices more effectively and efficiently. He has provided consulting to lawyers across the U.S. on practice management and technology issues confronting since 1994.

Nerino is a Certified Independent Consultant for a number of legal products, writes extensively for local, state, and national publications and is the technology editor for the ABA GPI Solo Magazine. He speaks internationally on topics of interest to lawyers and earned a spot on the inaugural Fastcase 50 list in 2011 of the top legal techies. Nerino blogs at compujurist.com.



In Memory of Jerome Mirza



Jerome Mirza was responsible to a considerable extent for the establishment of ISBA Mutual Insurance Company. He was unwilling to accept the substantial rate increases for professional liability insurance being experienced by Illinois lawyers during the time he served in ISBA offices and as ISBA President during the mid to late 1980's. Jerry

pushed for the establishment of our own insurance company as an alternative to the commercial market. He served on the company's management committee from its incorporation in 1988 and became the company's second President during 1989-1990. He played a significant role in charting the company's initial direction and he continued serving on the Board of Directors until 2005.

Jerome Mirza was a very successful and highly respected trial lawyer. He was also a prolific writer and legal educator. He

authored a number of books on trial advocacy published by the West Group. Jerry believed in giving back to the profession. He devoted much of his time to furthering the continuing education of practicing lawyers. In view of his deep commitment to CLE, the Board of Directors of ISBA Mutual Insurance Company believes it appropriate to dedicate our annual series of Risk Management Conferences to the memory of Jerome Mirza. Jerry died in 2007.

In addition to serving as President of the Illinois State Bar Association, Jerry served as President of the Illinois Trial Lawyers Association and served for twelve years on the Board of Governors of the Association of Trial Lawyers of America. He was a fellow of the International Academy of Trial Lawyers, the International Society of Barristers, the American Board of Trial Advocates, and was a member of the Inner Circle of Advocates. He secured numerous record setting verdicts during his distinguished career. In addition to his extensive continuing legal education contributions, Jerry also taught advanced trial advocacy as an adjunct faculty member at his alma mater, the University of Illinois College of Law.



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1 Introduction

Today's client expects their lawyer to be as technologically advanced, if not more so, than they are. Clients expect their lawyers to be able to communicate electronically; save money by using technology to easily, quickly and securely store and share documents and information with them and others; to use legal research and technological tools to represent them in and outside of the office. Clients also want you or anyone else in your office to be able to answer questions regarding their file if and when they call, not "I'll pull your file and get back to you tomorrow." The bottom line is that if you are not taking advantage of technology in your law practice then you are not practicing law as effectively and efficiently as possible.

Too many lawyers and firms have not embraced technology; in fact, they view the technology they depend on in their practice as being nothing more than a tool that is for assistants and clerical staff to understand. Those lawyers and firms that persist in this outmoded view will become today's dinosaurs and like those long gone creatures, will eventually die off and be replaced by those that adapted to the changing world. But beyond the economic issues posed, there is the recognition that technology isn't just something that only the support staff needs to understand: this was made clear with the adoption of Comment 8 to Rule 1.1 Competence of the ABA Model Rules of Professional Conduct in 2012.

*To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, **including the benefits and risks associated with relevant technology**, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject. (emphasis added).*

This comment change validates what many in the legal technology world have long said: with advancements in technology and the extent to which it has become inseparable from a lawyers' practice, lawyers, not just their staff, must have a working understanding of the technology they use on a daily basis. Let's consider some of the requirements of the modern law practice and see why you cannot hide from technology any longer.

For those who practice in federal court, e-filing has been a fact of life for many years. State court practitioners are finding that their courts have also adopted e-filing or are in the process of doing so as well. With e-filing, you no longer take paper pleadings to the clerk's office for filing; you now send them in PDF format by email or upload them to the Court's online portal such as the federal ECF/PACER system. Lawyer's and their staff must be able to convert documents to the proper PDF format, navigate the internet to the proper website site, use the system to upload the documents and be able to receive information from the courts in electronic format as well as pay for these services electronically. For lawyers without staff, or that only have part time support, with appellate practices – do you know how to insert a Table of Authorities into the appellate brief? Can you convert your briefs to PDF/A format for filing? Are you able to convert a document to PDF and remove confidential or restricted information such as birthdates, social security numbers and other personally identifiable information using redaction tools which are an absolute requirement in federal court?

Clients today want you to communicate with them electronically without disclosing confidential information. For those of you that are doing so, welcome to today's law practice and everything that it entails.

With reliance on electronic communications today, lawyers who do not embrace this technology will be unable to provide competent representation to their clients. Many clients no longer have landline phones but rely on their smart phones and tablets for voice, email and text communications and often times prefer non-verbal communication (e.g. texting or email) for interactions regarding their file.

Bottom line: Lawyers that resist adapting to the technological requirements of modern practice are not meeting the reasonable expectations of today's clients, other attorneys and outside parties dealing with them.



2 Using Technology to Run Your Office

The days of a lawyer being able to practice law with nothing more than a legal pad, pen and word processor are gone. The modern practice of law is dependent on technology and this trend is only going to continue as clients seek better, faster and less expensive legal services in a highly competitive legal marketplace. While you no longer have to spend tens of thousands of dollars to obtain the basic level of technology needed to run your practice, there are certain core technologies that every law office should be using. Let's begin by looking at what a lawyer and firm needs to accomplish daily:

1. Communicate with clients, potential clients, other attorneys and the courts
2. Schedule appointments, court appearances, meetings and more
3. Create documents such as letters, pleadings, briefs, applications, etc.
4. Find information and answers regarding client's files and issues
5. Organize information in their files
6. Track time and expenses for work performed
7. Bill for those services
8. Account for fees and expenses and money held in trust

2.1 MINIMUM HARDWARE AND SOFTWARE REQUIREMENTS FOR THE MODERN LAW OFFICE

The modern lawyer can accomplish these eight tasks with a few simple pieces of hardware, software and/or services readily available in the marketplace.

2.1.1 REQUIRED CORE HARDWARE FOR ANY OFFICE AT A MINIMUM:

1. **Computer** this can be a desktop, laptop or a 2-in-1 hybrid
2. **Printer** while laser printers traditionally have been the best choice for offices, modern inkjet printers are also now viable options
3. **Scanner** a separate standalone scanner is not only quicker but more efficient than a multifunction device and the hands-down winner for a general duty scanner is the Fujitsu ScanSnap iX500 <http://bit.ly/1MNjVuS>
4. **Phone** this can be traditional landline telephone, Voice over Internet protocol (VoIP) phone or smart phone
5. **Backup Device** *digital assets MUST be backed up regularly!*

2.1.2 REQUIRED CORE SOFTWARE AND/OR SERVICES FOR ANY OFFICE:

1. **Office Suit** Which includes a word processor, spreadsheet and presentation programs such as Microsoft (MS) Office 2013, WordPerfect Office X7 or Kingsoft Office
2. **Calendar** To track appointments, court appearances and other events that require a specific date and time as well as tasks which only require a specific date to accomplish such as MS Outlook or Google Calendar
3. **E-Mail Client** To communicate with others electronically such as MS Outlook, Gmail or Thunderbird
4. **Domain Name** To use for your e-mail communications and your website

- 5. Online File Storage and Sharing** To allow remote access to your critical documents and share files with clients and others electronically such as ShareFile, Box.com or OneDrive for Business
- 6. E-mail Hosting or Service** Which can be part of an overall web hosting service or can be obtained as part of an overall Software as a Service (SaaS) offering such as Microsoft Office 365
- 7. Document Management Solution** This can vary from something as simple as a consistent self-created folder and file structure to something less than a full document manager such as Lucion FileCenter <http://www.lucion.com> or PaperPort Pro <http://bit.ly/1KZFyZH> to a sophisticated full blown Document Management System (DMS) such as NetDocuments <http://www.netdocuments.com> or Worldox <http://worldox.com>.
- 8. Practice Management Tool** A disorganized office is an inefficient office and will be at a distinct disadvantage in today's legal market. Tools to organize your practice management are a must in no longer something that would be "nice to have". Whether you create a makeshift system using Microsoft OneNote and Microsoft Outlook or use an on-premise solution such as TimeMatters or cloud a solution such as Clio, practice management combines many of the tools discussed in this list in one place.
- 9. Time and Billing Tool** Whether you still charge clients based on the hour, flat fee or a hybrid alternative fee arrangement model, you still need to be able to track time and expenses and to bill your clients. While you can use word processing documents and spreadsheets, these are inefficient and take quite a bit of time to use. A better option is to use a dedicated program for time and billing or a practice management system that includes time and billing. Depending on the practice management tool selected, you may find that in addition to time and billing accounting is also included.

- 10. Accounting Tools** A law firm needs to be able to handle not only its time and billing, but tracking the income and expenditures for all aspects of the firm's business. Accounting software can make this task easier and more efficient. It is also necessary for tracking IOLTA funds in your trust account.
- 11. Online Legal Research Tool** Online legal research is no longer simply a nicety of modern law practice, but is a requirement as more and more courts require lawyers and firms to include online search as part of their due diligence requirements.
- 12. PDF Creation Tool** With PDF being the du jour standard for the federal courts, many state courts and other governmental agencies for electronic document formatting, you need a tool that allows you to create and work with PDF files. Products such as Adobe Acrobat XI Pro <http://adobe.ly/1MNkMeQ> Nitro PDF Pro <https://www.gonitro.com/pro> and Nuance PDF Advanced <http://bit.ly/1MNkSmU> are examples of these types of tools.
- 13. Backup Tool** You can use free or paid backup software or services to back up your data. Of course, paid tools provide more functionality and greater options for backing up your data, but free tools will provide a basic solution to protect your data.

So now we have the basics of what we need for hardware and either software or cloud-based services for the office. You can start using each of these in a piecemeal fashion or deploy them all once without making any changes to your current operation; however, part of being effective and efficient in using these tools is to become more productive. You need to become more effective and more efficient in your workflow and processes, thereby allowing you to accomplish more with less time and effort. Examining your hardware and software are just part of the overall process of making better use of your existing technology or implementing new technology to meet today's challenges – it also requires an examination of current procedures and processes in your office.

2.2 HOW THINGS FLOW:

There are a number of different ways for reviewing the processes you use in your office on a daily basis. Articles and checklists such as the following discuss the concept of Business Process Modeling (the BPM) although I warn you in advance your eyes may glaze over when you start reading many of these:

Review Your Office Procedures	http://bit.ly/1gqxHXM
Process Mapping (video) Affinity Consulting	http://bit.ly/1gqB0hy
Business Process Mapping Wikipedia	http://bit.ly/1gqChW3
Process Mapping LeanKaizen	http://bit.ly/1gqB0mK
The Lean Doctor's Office: Using Value Stream Mapping to Improve Your Workflow	http://bit.ly/1gqBWCy
Business Process Modelling	http://bit.ly/1gqCHvB
Business Process Modelling with Techniques	http://bit.ly/1gqCSH6

What you are really trying to determine is each and every step of a process or procedure that is required in your office to accomplish a given task. For example, what is the procedure or process from the time a potential client contacts your office to the time the client actually hires your firm and you open a file? Or what are the steps for a letter to be scanned into the client file and delivered to the appropriate attorney? Can any of the steps in the process be eliminated? If you change the technology that you use can you eliminate any steps or streamline the process? While workflows are traditionally diagrammed using a flowchart, they can also be done simply by detailing each step in the process on a numbered list such as the following:

INCOMING DOCUMENT PROCESS

1. Mail delivered to receptionist
2. Receptionist places mail in the lawyer's inbox in mailroom
3. Assistant gathers mail from inbox and takes back to her desk
4. Assistant puts document on attorney's desk
5. Attorney opens and reviews document
6. Attorney dictates or writes out notes for assistant to send with copy of document to client and places document for assistant to pick up and file
7. Assistant gets document back from attorney
8. Assistant reviews notes or listens to dictation

9. Assistant generates letter or notes
10. Assistant makes copy of document
11. Assistant sends letter and document copy to client
12. Assistant places original document in file

From this list we see that it is 12 steps from the time the document comes in the door to the time it is put in the file. Seeing the steps in writing may allow you to consider steps that can be eliminated or changed to shorten the process. Here is an example of how using technology and scanning can eliminate several steps:

INCOMING DOCUMENT PROCESS (SHORTENED)

1. Mail delivered to receptionist
2. Receptionist places mail in the lawyer's inbox in mailroom
3. Assistant gathers mail from inbox and takes back to her desk
4. Assistant scans document and saves it to file in Clio
5. Messages attorney in Clio that the file has been received and filed
6. Attorney opens document in Clio and reviews
7. Attorney messages assistant to send standard cover letter to client with original
8. Assistant prints letter and sends with original document to client

IN THE ALTERNATIVE, DIAGRAMMING THE PROCESS MAY HELP YOU UNDERSTAND THAT THERE REALLY WILL NOT BE MUCH OF A CHANGE REQUIRED TO YOUR CURRENT PAPER BASED FILE SYSTEM PROCESS TO A DIGITAL BASED FILE SYSTEM AS SHOWN IN THESE NEXT SEVERAL DIAGRAMS:

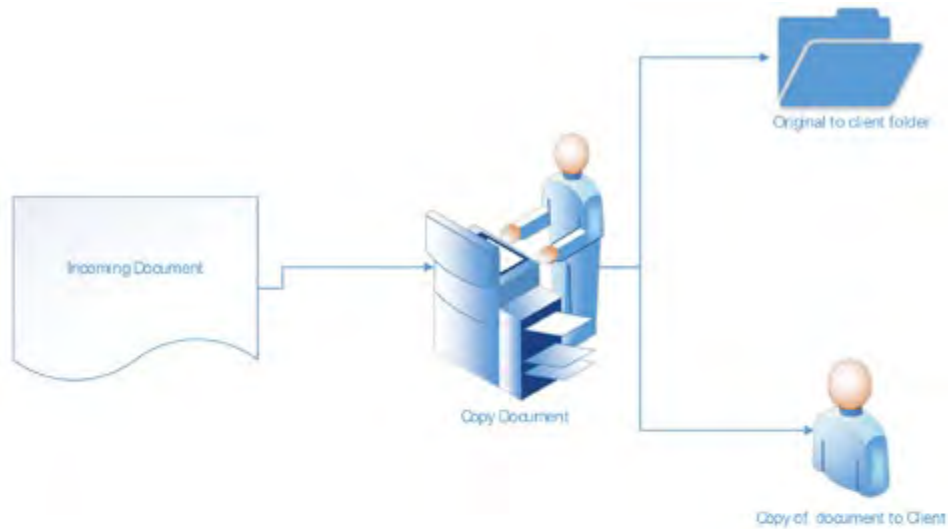


Diagram 1



Diagram 2

Diagram 1 shows the incoming document process in a paper based filing system followed by many firms. Diagram 2 shows the process for a digital based filing system. As these Diagrams demonstrate, the process used for a less paper approach isn't

that different than the old process for paper based filing. Let us examine another common task in the office – telephone messages and the ubiquitous pink message slips.

HERE ARE THE COMMON STEPS WHEN TAKING A TELEPHONE MESSAGE IN A LAW FIRM:

1. Call answered by receptionist
2. Receptionist asks for caller information
3. Message written on pink message slip
4. Message slip is placed somewhere for the attorney to get when receptionist has the opportunity
5. Attorney picks up message slip and reviews it once they are back in the office
6. Attorney uses message slip to return a call
7. Attorney makes notes on a legal pad
8. Attorney records the time and details of the call for billing (usually on a paper timesheet)
9. Attorney gives assistant detailed written notes or dictates them to be placed in the paper file
10. Attorney later wants to review notes, so assistant pulls the paper file from the filing cabinet

THAT IS A LOT OF STEPS AND WORK. LET’S TRY THIS USING CLIO:

1. Receptionist receives a call.
2. Receptionist asks caller for information

3. Receptionist opens the matter in Clio, and records the call details as a communication
4. When the call is complete, the Receptionist saves the message and the attorney is notified of the message through Clio
5. Attorney checks Clio from his mobile device or in the office and he or she is notified of the message in Clio
6. Attorney opens message and makes the call
7. Attorney adds notes to original message or creates a new notes record for matter.
8. Attorney ends call and then adds time for the call from the message

While it takes a bit longer to select the matter and other information when taking the information for the call, in the end it is quicker as all information is placed in the practice management system and only needs to be entered one time. No paper message slips to be misplaced or missed. Notes and information is in the system for later review. If the attorney wants to review the information at a later date, he or she can do so from anywhere they have internet access.

So what else can practice management tools do for the modern law office?

2.3 LEGAL PRACTICE MANAGEMENT SYSTEMS

At their most basic level, Law Practice Management System (LPMS) products are designed to track four primary or key pieces of information. Each one of these pieces of information is stored in a record. In fact, each piece of information stored in an LPMS is generally its own record. Examples of records would be a time entry with all of its details or a calendar item with the date, time and location. An email saved to your LPMS would be an email record. Here are the four key pieces of information with their definitions:

Contact	Records that are like a Rolodex: they contain information such as phone numbers, addresses, email and website information for a person or company, as well as information such as their spouse, home address, children, etc..
Task/ To Do	Records that involve a date, but do not rely upon a set time, although they may have a duration assigned to them. These records may include returning a call, filing a pleading, following-up to see if an action has been taken or a response received.
Case / File / Matter	Records that contain information about the “file.” Just like a paper file, these records can store all of the related information including Contacts, Events, To Do’s as well as Billing entries, Notes, Phone Records and Documents.
Event	Records that involve a date, a time and duration. These records can be used for appointments, court hearings, real-estate closings and for creating a filing, contingency or other type of deadline

While these records are the four primary record types around which LPMS products revolve, there are also a number of other records including pieces of information such as email, time and billing, notes and more. While many of these record types can be found in products such as MS Outlook, there is one very important difference: unlike Outlook and similar products: LPMS are designed to work the way that attorneys work.

2.3.1 RECORDS, RECORDS EVERYWHERE.

Let's explore this further. With an LPMS, every record that you create can be tied to a specific client or matter. This allows you to quickly search and view all records pertaining to a particular client or case in a single location. In Outlook, you can enter calendar items, create a task (To Do) item or note and enter a contact. More problematic however, is adding cases or files. Cases or files are just not something that Outlook is designed to deal with and requires a hack or work around to add this feature to Outlook. The most critical issue when using Outlook or some other contact manager as your LPMS is how do you quickly and easily find and view upcoming events, tasks or notes for a client or a file? One way is to create a workaround using the categories feature in Outlook.

This is one of the most common hacks to use Outlook as a makeshift LPMS and to be able to track your records associated with a case/matter/file reference. This hack requires that you use categories in Outlook as the case or file reference. Figure 1 shows what this may look like:

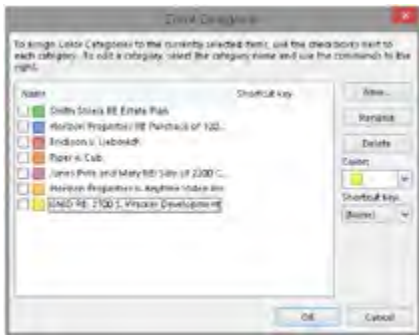


Figure 1

Using categories in this manner allows you to sort and filter on the category which is now the case reference. However, this is a less than optimal solution as you lose the category capability, but it will work. And yes, you can search Outlook records, but remember, we are looking for quick and easy – if you've ever tried to search in Outlook for disparate pieces of information, you'll understand that it is anything but quick and easy. And when you have everything in Outlook using these hacks, the next challenge your face is trying to get the firms calendars to sync to

a single calendar that you can put on a smart device. The bottom line is that Outlook isn't designed to easily share information of one person with other persons in the office in a simple, consolidated view. And don't forget that sharing your Outlook records with someone else generally has to be done in advance when you are either at your computer or you have access to the Outlook Web Access interface. So what this means is that if you are covering for someone else and need access to that attorneys email for a client or you are out of the office with nothing more than smart phone and a staff member needs access to your email, you are out of luck.

And while you can add User fields to Outlook to collect information that is not included by default, you are still limited to what you can do with that information in those records. At the end of the day, it still leaves you with the issue of tracking information for a case. Yes, you can create a contact for a case/matter/file, but again this is a "patch" that is less than optimal. So while using Outlook is better than not using a LPMS, it is similar to using an abacus versus a modern calculator to get an answer. While they both work, one is going to be much easier and quicker than the other.

As mentioned above, while the four primary records are the key pieces of information that an LPMS revolves around, the capabilities of an LPMS far exceed these pieces of information and most, if not all LPMS include one or more of the following capabilities:

- Capture Notes.
- Capture Phone Calls.
- Capture Legal Research.
- Send information to time and billing programs.
- Manage documents associated with a case/matter/file.
- Add fields for custom information.
- Associate emails with a client or case/matter/file.
- Set multiple reminders.
- Assist with conflict checks.
- Share calendars, contacts, notes, tasks and other records with everyone in the office (you can also limit who has access to certain records as well).
- Synchronize calendars, contacts and other information to smart devices.

And the LPMS does all of this while also keeping track of which client or file each piece of information relates to with little or no effort on your part. Table 1 lists examples of modern LPMS products and services:

¹ Check out Deborah Savadra of The Legal Office Guru for more information on this Outlook hack <http://bit.ly/1JaEdsD>

ActionStep	www.actionstep.com
Advologix	www.advologix.com
Amicus®	www.amicusattorney.com
Clio	www.goclio.com
CosmoLex	www.cosmolex.com
Credenza	www.credenzasoft.com
HoudiniESQ	http://houdiniesq.com
MyCase	www.mycaseinc.com
Needles	www.needles.com
Practice Master®	www.tabs3.com
ProLaw	www.elite.com/prolaw
RocketMatter	www.rocketmatter.com
TimeMatters®	www.timematters.com

What all of these LPMS products have in common is this: they all put critical information regarding your practice such as client and case information, information for other parties, events, email, notes and to do items, at your fingertips. *Properly implemented*, a LPMS puts all of the information regarding a case at your disposal from your computer screen without the need for opening the paper file.

2.3.2 NOT TOO BIG, NOT TOO SMALL, BUT JUST RIGHT.

LPMS products are no longer just for the bigger, prosperous firms. There's a product or service that is just right whether you are a solo attorney or firm of hundreds of lawyers. The biggest change in the last seven years has been the introduction of cloud based or software as a service (SaaS) LPMS products. Prior to this, your only choice was a traditional practice management software that was installed on your computer or your network in your office. This is often referred to as "on-prem" software. This means the software is physically installed in your office. This traditional on-prem software continues to grow and add features and capabilities as the companies that make it listen to lawyers and everything they want. We are now at the point where these programs can be adapted to just about any type of practice setting and are extremely customizable and flexible.

Current desktop LPMS products are extremely sophisticated and can be used in myriad ways that their creators a decade or more ago never envisioned. However, each time new capabilities and features are added, the complexity level of these desktop

products also increases. All of this flexibility and customizability comes at a cost however: installing, customizing and even implementing and learning how to use these products has grown more complex and challenging. These on-prem products have become so complex that firms attempting deployment, customization and training without the help of a third-party consultant run the risk of having their investment fail.

Another challenge of these on-prem products is the upfront costs. These on-prem LPMS require a significant upfront investment in both time and money, making them unaffordable for many solo and small firm attorneys. Many also believe that we've reached a tipping point where these on-prem products have added all of the bells and whistles that attorneys requested, and now the selfsame attorneys believe that they are too complex and over-featured for their needs. This has led to many attorneys looking for a product or service that has fewer features and that is easier to implement, learn and use. In 2008, this desire for a simpler and less costly LPMS option opened the door to cloud-based LPMS products such as RocketMatter and Clio, which have since been followed by a number of other cloud based LPMS solutions.

2.3.3 WHAT'S THE CLOUD?

What is important at this point is the difference between an on-prem and a cloud-based solution. Use the phrase "cloud computing" in a group and it seems that you will get as many definitions as there are people in the room. Some ascribe cloud

computing to delivering Software as a Service (“SaaS”) wherein all users of that service or product access the same tools sharing a common interface and providing little or no customization capabilities. One example of this would be any of the free e-mail services such as Gmail, Outlook.com or Yahoo! Mail. While you can generally change the appearance or move columns around, every user shares the same interface and has little ability to significantly customize the service. To keep things simple, we will define cloud based products as those being SaaS products in which everyone that uses that service or product accesses the same tools using a shared common interface. Better yet, think about cloud computing like this:

“Cloud computing is a fancy way of saying stuff’s not on your computer”

– Quinn Norton, MaximumPC Magazine September 2010

The big difference today is that you can customize the SaaS LPMS products to a degree that didn’t exist a few short years ago. The level of customization in these SaaS based products is still not as robust or sophisticated as their on-prem competitors, but they are getting much better and allow you to add customized information to better suit your practice needs..

Another significant benefit of SaaS LPMS is the ability to access these tools and your data anywhere at any time (mostly). You can access your information from anywhere you have a broadband Internet connection and from any device albeit a desktop or laptop, tablet or smart phone. And since you’re accessing all this information over the cloud, it makes no difference whether you have one office with all of your users centrally located or users working from different locations or even states.

2.3.4 COMPETITION IS A GOOD THING.

In 2008 there were only a few SaaS based LPMS tools available, but since then, competition in the marketplace has grown with offerings from a number of vendors. These new LPMS products provide different levels of content and flexibility and are now available to attorneys and their staff. In the solo and small firm environment, attorneys can now choose from popular products such as Clio www.goClio.com RocketMatter www.rocketmatter.com MyCase www.mycase.com CosmoLex www.cosmolex.com and ActionStep www.actionstep.com to name just a few. All of these services offer solid practice management tools for pretty much any type of practice. For more detailed listing of SaaS based LPMS products, check out the Resource List at the end of these materials.

2.4 LPMS IS YOUR MISSION CONTROL

I put such an emphasis on in LPMS because it’s your “mission control” that serves as the central hub for everything you do in your practice when it comes to tying all of the disparate pieces of information that makes up the client file in your practice together. Another way to look at your LPMS in the role it plays would be to compare it to a train station where each track is a different source of information; whether that’s a calendar entry, a billing record, document or phone call, all of the different tracks (i.e. information) lead back to the central station. The key concept is that from this one spot you can reach out and find anything you need regarding your case or file. Here is this concept visually as shown in Diagram 3:

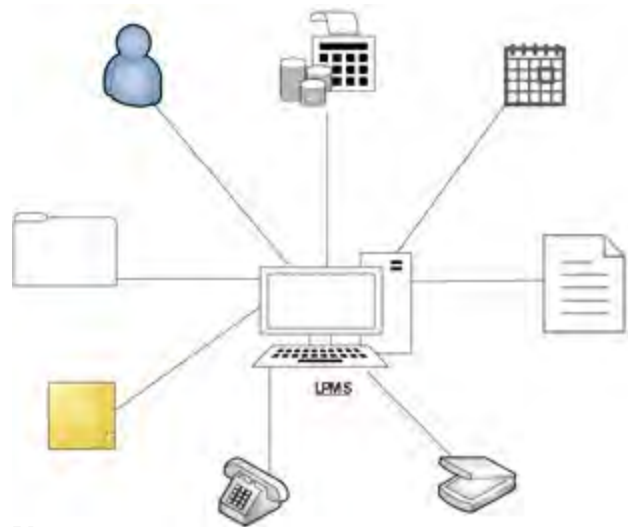


Diagram 3

Depending on the product you use, it may or may not include time and billing but even if it does not, many of the popular time and billing products integrate with modern LPMS products or services. So you can use the information contained in your LPMS to add time and expense records to your billing information, review worksheets and generate bills all felt the need to constantly double enter information. Ultimately, that is one of the largest benefits of using LPMS tools: *the double or multiple entry of the same information in different pieces of software or services is reduced or eliminated entirely.* This not only saves you time, but improves efficiency and allows you and your staff to work on other things that in the past, you would be spending that time simply duplicating information already found in your data systems.

2.5 TAMING THE PAPER TIGER.

Paper, paper and more paper! Lawyers often seem to be drowning in a sea of paper. Storing all of this paper is not the only issue. How do you keep all of it properly filed? How do you

² Full quote from magazine, p. 12 downloaded from <http://bit.ly/1Jax23y> “Cloud computing is a fancy way of saying stuff’s not on your computer. It’s on a company’s server, or many servers, possibly all over the world. Your computer becomes just a way of getting to your stuff. Your computer is an interface, but not where the magic happens. As my friend @obra says, “Cloud computing is just mainframes with rounded corners.”

locate it later when you need it? How do you easily provide a copy to a client or other party? Do you have to walk down the hall and pull the paper file just to look at the document that you created in your own office or that may have come in from outside of the office? For those just starting in practice, these may seem like minor issues; however, for those that have been in practice for any length of time, overflowing file cabinets and bankers boxes of closed files become our own personal tiger that we are hanging onto its tail and can't let go. I wish the answer was as simple as scanning everything and converting that to electronic files but it is not unless you have the proper workflows, software and hardware tools in place to take advantage of this digital data. Of course, one of the best tools to tame this paper tiger is your LPMS.

2.5.1 THE PAPERLESS OFFICE.

Paper was great for our grandfathers and even our fathers, but we live in a digital world. The days of mechanical typewriters and carbon paper are long past. Our clients and other professionals exchange information by electronic means such as email, text messages and digital files. The reality is that electronic documents are now a part of a lawyer's everyday life. If they are not part of yours, you need to ask yourself why they are not. So what is the paperless office?

According to Wikipedia:

A paperless office is a work environment in which the use of paper is eliminated or greatly reduced. This is done by converting documents and other papers into digital form. Proponents claim that "going paperless" can save money, boost productivity, save space, make documentation and information sharing easier, keep personal information more secure, and help the environment. The concept can also be extended to communications outside the office.

Many believe that "going paperless" requires the total elimination of all paper from your practice. While this is a laudable goal, it is completely unrealistic at this time. The total elimination of paper is many years in the future, if at all. A better way to look at this is an office that has less paper. My friend, the late Ross Kodner of Microlaw, coined the term The PaperLESS™ Office to describe this concept of reducing the amount of paper necessary and how often paper is handled, rather than the total elimination of all paper. I believe this is a realistic goal for most lawyers and law firms.

2.5.2 THINGS TO CONSIDER BEFORE GOING PAPERLESS:

There is more to becoming paperless than simply buying a scanner and some software, although these are important pieces to the process. Before you scan your first piece of paper you

need to determine a number of things to establish a process and procedures that can be easily followed by everyone.

2.5.3 WHERE ARE YOU GOING TO STORE YOUR DATA?

Where are you going to store the digital files? Will they reside on a network, on a single computer or out in "the cloud?" The good thing about current technology is that hard drives are inexpensive and keep getting bigger. Take a 1TB (Terabyte) internal hard drive currently available for under \$75.00. Let us say for discussion purposes that you generate 2GB (Gigabytes) of files each year. A terabyte is the rough equivalent of 1,000 Gigabytes. For under \$75, you can store about 500 years' worth of information on that drive. For a solo attorney, a Terabyte of document storage should last you for some time while in a multiple lawyer firm, a terabyte may be filled in under five years. However, storage is cheap today and we no longer face the constraints of the storage media being too expensive.

2.5.4 IT DOESN'T HAVE TO BE A NEEDLE IN A HAYSTACK:

Another important question that needs to be answered before you start scanning documents: how are you going to organize all these documents? This question doesn't only apply to scanned documents, but to documents created internally using word processing and spreadsheet programs. Organizing your documents has a huge impact on the effectiveness and efficiency: the easier and quicker it is to find documents, the less time you spend looking for them. Are you going to organize them by client, by attorney, by type of document or some other method? In your current paper filing system: do you put your files in filing cabinets in alphabetical order by client? Or do you perhaps organize by year and then by client? Do your documents get filed under the attorney name or by the type of document itself? How are you currently organizing your files on your computer? While there is no one right answer that applies in every circumstance, there are a number of ways that are wrong.

Generally, sorting by document type, attorney name or year are terrible ways to organize your documents at the top level. Think about this from the perspective of someone trying to find these documents: how easy will it be for someone who's not used to working in your office to find a document under any one of those filing scenarios? The answer is that it will not be easy: you will spend a lot of time, energy and effort simply trying to find documents when a more rational organizational structure, even a self-created filing system, that uses the client last name and then the file or matter name, makes much more sense. Even using many of the LPMS products, you can stick to familiar folder naming conventions as they don't provide all of the capabilities

³ <http://bit.ly/1JaFwI3>

of a full blown document management system. But even with this limitation, for our perspective in this seminar, one of the best things you can do is to use an LPMS by itself or use an LPMS in conjunction with a document management system to store and organize your internally and externally generated documents. Whatever structure you use, one point that I can't stress enough is this: *you and your staff must be consistent in following whatever file naming and storage methodology you adopt.*

2.5.5 WHERE TO START:

So where do you start scanning? Do you focus on open files or do you start first with closed files (scanning closed files is referred to as "retrospective conversion")? Personally, you should take your cue from the band Boston and the title of their song "Don't Look Back".

Since we're focusing on effectiveness and efficiency, which translates directly into your bottom line, here's the reality: Closed files don't generate revenue and normally, you do not need the information contained in them on a regular basis.

This means that the last place you want to start going paperless is with closed files, although this is unfortunately where most lawyers start. This is referred to as retrospective conversion. While there can be long term benefits from reducing storage costs for old paper, *there is no immediate benefit to you or your practice.* Instead, retrospective conversion results in an immediate negative impact as it siphons resources away from your primary goal of making your practice more effective and efficient by putting your focus on non-revenue-generating files.

Improve your efficiency and effectiveness using new files that generate revenue which then allows you to perform retrospective conversion at your own pace without impacting your bottom line

New cases are the easiest to start with, and the information they present is the most valuable. Once you have all of your new and open files scanned, only then should you consider undertaking retrospective conversion.

2.5.6 SORTING INTERNAL AND EXTERNAL DOCUMENTS

Another question that many attorneys ask is how to differentiate between files generated internally and files that come in from outside of the office or that they send out of the office? How do you know if a draft letter has actually been sent if you're doing so only in electronic format?

A number of paperless office advocates recommend treating anything not in PDF format as drafts. If a letter or other document does not also exist as a PDF file, then it hasn't been sent to the receiving party and non-PDF files are merely drafts of the document (See this post on Lawyerist.com <http://bit.ly/1JaloV7>). This method has the benefit of allowing you to quickly see if an internally generated document has been sent. You can store both the native (i.e. Word, WP or Excel) file with the PDF versions. This lets you quickly determine if a PDF exists as it should be listed immediately adjacent to the native files of the same name. However, some people do not care for this method as it can be confusing at times as the files only differ by the document type as shown in Figure 2:



Name	Date modified
20140102 Ltr to Martin Able RE Allstate Resp...	1/2/2014 1:07 PM
20140102 Ltr to Martin Able RE Allstate Resp...	1/2/2014 4:01 PM

Figure 2

David L. Masters, author of several editions of *The Lawyer's Guide to Adobe Acrobat* printed by the ABA Law Practice Division, prefers to use a dual folder structure: one folder for the native files and one folder for the PDF files. (David describes this in his article from the December 2003 GPISolo Magazine at bit.ly/146nKFx. An example would be similar to the following example:

- ☐ Jenkins AI v Bell Credit Union
 - ☐ CorresPDF [all correspondence in PDF]
 - ☐ CorresWPD [all outgoing correspondence in native WordPerfect format]
 - ☐ Plead PDF [all pleadings in PDF]
 - ☐ PleadWPD [all pleadings in native WordPerfect format]

Using dual folders has the benefit of keeping native and PDF separate but organized. One difficulty with this method though is that you need to look into two folders to determine if a PDF exists and therefore has been “sent” to the receiving party.

There are any number of methods and concepts for organizing your folders and files; if you’re not using a full document management system you need to find one that works for you. Here are just a few that you can look at if you’re looking for a better method:

The Document Naming System in Our Paperless Office, Donna Neff and Natlaie Sanna, ABA Law Practice Today September 2009 <http://bit.ly/146oNp4>

The Basics of Client Files and Paperless Systems: Opening, Closing, Documentation, and Ticklers, Minnesota Lawyers Mutual Insurance Company (2008) <http://bit.ly/1MsNhyi>

Super Structure: The Paper-Based System Holding Up Your Paperless Office, Small Firm Innovation Blog <http://bit.ly/146utze>

2.5.7 FINDING YOUR DOCUMENTS

Any filing system is worthless unless you can find your documents once they have been filed. This is true of both paper and paperless systems. If you have an efficient paper filing system, you should consider duplicating that for your paperless filing system as well. If you are not using a document management system (DMS) such as Worldox, TimeMatters, NetDocs, or one of the other numerous DMS products, then your organizational structure becomes even more important. But even with the best structured system, it may not be enough. If you remember a phrase or subject but can’t remember the client or file, then it will be difficult finding the document. This is where desktop search engines can be of assistance.

Searching digital information can be much easier and done from the desktop using the correct tools for the job. Desktop search engines will index every word in digital files that contain text as well as file names, search email and attachments. For users of Windows 7, 8 or 10, the Windows Search tool represents a significant improvement over prior versions. In Windows 7, 8 & 10, the Search Tool will not only search titles, but inside files as well as long as they are text searchable (although you may need to activate indexing (see <http://bit.ly/1MNqVYx> or <http://bit.ly/1Mnr2Dr> for more information). For Mac users, the Spotlight search tool will do the same.

If you are running Windows 7 64 Bit, you may have encountered issues with searching within PDF files. See this post on DocumentSnap for a fix <http://bit.ly/146xBex>

However, the tools built-in to your Windows or Mac desktop are not your only options. Tools such as Copernic www.copernic.com X1 Search and for larger offices ISYS and dtsearch@DTSearch www.dtsearch.com provide more search options and capabilities. If you and your staff can find information faster and easier using electronic files, then you are more likely to follow your paperless workflow and adopt it permanently. While not a replacement for a DMS, combining your folder structure with a desktop search tool can be very effective for a small office. If you are using a DMS, then it will have its own built-in search tools.

Remember, one of the keys to successfully moving to a paperless office is to use a system that works for you! There is no one system is perfect for everyone.

2.6 WORKFLOW

Once you’ve made the decision to go paperless and have decided how you will organize your folders and files, you need to map out your proposed workflow. You will use the workflow along with your decisions on folder and file naming structure *to create a written policy for your office*. Remember that implementing a scanning and storage policy is not something that you just want to jump into without prior thought and planning. The goal of implementing a scanning solution should be to improve efficiency, simplify storage and retrieval and allow for a backup methodology. Before you can implement a functional scanning workflow in your office, you should ask yourself some basic questions:

- What documents do I want to convert to electronic files?
- Do I want to capture all of my closed files and old documents (“Retrospective conversion”)?
- Do I want to capture documents from a set date and those that come into the office after that date?
- Am I going to eliminate maintaining paper copies of outgoing documents in my files so both outgoing and incoming documents are all stored electronically?
- Am I going to scan all incoming documents or only certain incoming documents?
- If I’m only going to scan a portion of incoming documents, which documents will they be?
 - Mail?
 - Letters
 - Pleadings
 - Etc.
- Discovery Requests – Scan and OCR rather than retyping to respond?

- Medical Records?
- Other Evidence?
- Will I shred all documents once they have been scanned?
- Will I keep documents with original signatures on file?
- Do I have the software that I will need? If not, what do I need?
- Do I want to be able to search the electronic files or do I only want on image of the document?
- Do I want to be able to scan a document in and then modify it in my word processor?
- Do I want everyone to be able to access these documents and if so where should they be placed?
- Can I integrate these with my LPMS?
- Am I going to use my existing electronic folder structure or do I want to implement a document management system (“DMS”)?
- How much can I spend on this project?

You should use these questions as a way to establish an internal procedure that is realistic given your existing resources. Determining what documents will be scanned can impact decisions as to whether or not you need to add more hard drive storage space, use your existing software and hardware or purchase new and whether you can use your existing electronic folder structure or implement a DMS. If you want the documents to be searchable, you’ll need the capability to perform Optical Character Recognition (OCR) on them.

Using all of this information, you can create your roadmap to follow for your office. More importantly, and you and you and your staff need follow it, to the letter. If you are not using a DMS, any system will rise and fall on consistency. This will take discipline on the part of you and your staff, but is critical to a successful transition and continuation of going paperless.

Your existing workflow for incoming documents might look something like that shown in Diagram 4:

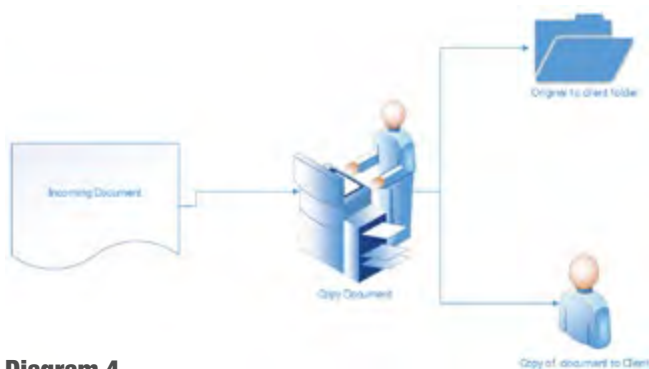


Diagram 4

And for outgoing documents, something similar to Diagram 5:



Diagram 5

A simple incoming workflow for a paperless office might look something like Diagram 6:



Diagram 6

Your outgoing paperless workflow could be similar to that shown in Diagram 7:



Diagram 7

A file centric (and complex) workflow might be similar to the one shown in Diagram 8 from DocumentSnap <http://www.documentsnap.com> which is a terrific resource for going paperless.

Windows FileCenter Workflow

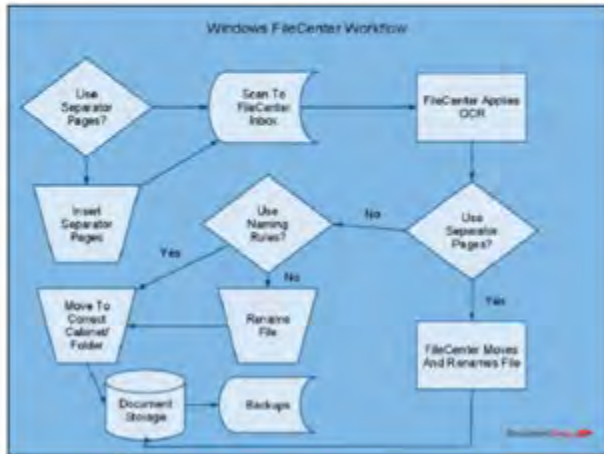


Diagram 8

Using a diagram can help you visualize the process and make it easier to follow. It can also help point out steps that could be consolidated or discarded to make the process more efficient.

2.6.1 WHAT YOU NEED TO GET STARTED

To begin your move to the paperless office, you only need a few basic tools in addition to your computer and scanner:

- Scanner
- PDF Software
- Backup tools

2.6.2 TAKING IT TO THE NEXT LEVEL

If you want to take your scanning and storage to the next level, then look to use a LPMS such as TimeMatters (with its built-in DMS) or Clio (with its built-in storage or links to DropBox or Google Drive allowing you to create your own storage structure) or a dedicated DMS such as Worldox or Netdocs. The LPMS allows you to attach your documents to specific matters so all you need to do to find a document for a case or matter is to go to it in your LPMS. A true DMS will also organize based on client and case or matter.

On-prem LPMS products and true DMS products include full text searching, the ability to profile the documents with information including the client, matter, type of document and other information. Additionally, they will also create your folder structure and automatically name your files.

While not as full featured as an on-prem LPMS or a true DMS, many of the cloud based practice management products such as Clio and MyCase include the ability to associate files with matters. Clio allows you to scan directly to Clio's included document storage directly from a Fujitsu ScanSnap. You can also use one of the online document storage services including Dropbox, Box.com and Google Drive to store your files and associate them with a matter. However, there is no native full text searching in these cloud based services.

2.6.3 AND NOW A WORD ABOUT BACKUP

Backup is not an option but a requirement for all of your digital data.

Backup. Is. A. Requirement. Period.

Diagram 8 (Image used with permission)



3 Tools to Help You Practice

3.1 DOCUMENT AUTOMATION: USING TECHNOLOGY TO IMPROVE YOUR PRACTICE

So what is document automation (also referred to as document assembly), and why do lawyers need it? Simply put, it is a way to assemble documents or populate documents with variable information. Document assembly traditionally referred to the creation of documents from separate clauses and information based on the answers provided during an interview or question-and-answer process within a piece of software or on a website. Document automation, in contrast, was viewed as “a fill-in-the-blank form” where information such as names, addresses, company names, etc., was added. Today, the lines are blurred and either name can be used interchangeably. The terminology used is not what is critical—the real question is why do lawyers need document assembly? The answer is quite simple: money.

3.2 TIME IS MONEY

Yes, it really is all about the money. Lawyers, especially solo and small firm lawyers, face increasing competitive pressures from other lawyers and from non-traditional service providers that seem to be in a race to the bottom when it comes to fees. Service providers such as LegalZoom (which bills itself as providing “self-help services at your specific direction”), Rocket Lawyer, and others pose a significant threat to firms focused on the average consumer. These non-traditional service providers often charge less than a lawyer does for preparation of similar documents. Granted, the consumer does not receive the benefit of getting the experience and advice from a lawyer, but the reality is that the consumer is too often singularly focused on price. These non-traditional providers have, in fact, done what Richard Susskind discusses in his book *The End of Lawyers? Rethinking the Nature of Legal Services* (Oxford University Press, 2008), which is the commoditization of many legal services.

To compete against this pressure, you need to be practicing as effectively and efficiently as possible. One of the ways to do this is to focus on gaining efficiencies in the preparation and production of documents used on a regular basis in your practice. While you can try simply to charge less while preparing your

documents in the same old way, doing so (to quote the old saw) will only get you sorry and sore. Instead, you must produce your documents in way that is more productive in the use of your time and more efficient by leveraging standard language that you use over and over again. You can then simply modify or add the language that changes each time—variable language such as names, birthdays, agents, amounts claimed, etc.

3.2.1 REUSING “DUMB” DOCUMENTS VS. CREATING AUTOMATED DOCUMENTS

When it comes to preparing documents, too many lawyers simply reuse existing word processing documents; they open the old document, and then they go through and change the information each time they create a new one. Does this work? Yes. Is it a good idea? No, it is not. At some point this practice not only can end up embarrassing you but can lead to potential violations of the Rules of Professional Conduct.

Reusing a previously created document for a different client requires you to find each piece of information for that prior client and replace it with the information for the new client. This requires you to carefully review the form and find every piece of prior variable information. You then need either to (1) highlight and delete each and every piece of that prior information and then type in the new information or (2) highlight each piece of information and then use the overwrite function of your word processor to replace each piece of the prior information. Experience shows that this takes you more time than even just using a blank form each time in either scenario.

By reusing a prior form you also run the risk of failing to fully remove some of the old information pertaining to the prior client. At some point, we have all come across a document whether from another lawyer or our own office that was clearly created from a prior document for a different client or matter. The tip-off could be something as simple as an incorrect pronoun—“he” where it should be “she” or “her” where it should be “him”—or an address or description that has nothing to do with the client or matter at hand. At a minimum, this can be embarrassing; at the worst, it could invalidate a document and lead to a malpractice

claim. ABA Model Rule of Professional Conduct 1.6 requires all lawyers to act competently to safeguard their client's confidential information. Rule 1.6 does not provide an exception for inadvertent disclosure such as failing to properly remove a prior client's information from a document you use for a new client or matter.

To avoid running afoul of Rule 1.6 and potential malpractice issues, at a minimum you need to use a template requiring you to save the document as a new file while preventing you from overwriting the template itself. By doing this, there is never any client information saved to the template, thereby eliminating the risk of inadvertently including information you should not.

But what if you actually automate your document creation process? Automating the creation process allows you to generate documents in less time, with fewer potential errors, while providing more pricing flexibility for your work. Let's consider an example of how document automation can affect creation of a very simple form such as the Illinois Statutory Short Form Power of Attorney for Property (POA):

The Illinois POA form requires that you provide the identity of the Principal, the Agent, a Successor Agent, and the Witness. You also can expand or limit the powers granted in the statutory form and provide for effective and termination dates other than signing and death. Document automation works best when you begin with simple documents and progress to more complex documents as you gain confidence with the process. For this discussion we will create a basic POA that is designed to work for a large number of basic POA needs and that will minimize the number of variables we need to change for each document. These variables are:

1. Full name and address of the Principal
2. Full name and address of the Agent
3. Full name and address of any Successor Agent(s)
4. Full name of the Principal in the Witness provisions

All other variables such as limitations or additions to the Agent's powers and the effective and termination dates are pre-completed with information that you use each and every time. As you gain confidence with your document automation capabilities, you can modify your form so that these variables are not fixed but will be created based on information you provide unique to the client.

So think about the options you are presented with above: The first option is to take a form from another client, search through it for prior client information, and then find and replace that prior client information; the second option is simply to enter the variables in a series of questions and then hit a button to

generate the POA. Which is faster? Yes, this is a trick question—the second option will always be faster.

Faster in this instance translates into less time spent generating the document and fewer chances of including prior client information. Spending less time creating the document translates into more effective use of your time and resources. Thus you can make more money on a document, even if you charge less than you did previously because you've made the whole process more efficient.

Below are resources for information on how to create templates for forms in four popular word-processing programs (Word, WordPerfect, Pages, and iWork for Mac):

Save a Word document as a template bit.ly/1AEIneq

Create forms that users can complete or print in Word: bit.ly/1AEIxCD

Create, use, modify, fix, or delete your own custom templates in WordPerfect bit.ly/1AEIG92

Create a WordPerfect template abt.cm/1AEIK8Y

Create a Pages template bit.ly/1AEI08E

Customize templates in iWork apps for Mac bit.ly/1AEIU08

3.3 WHAT ARE YOUR OPTIONS?

When it comes to document automation, you can get started with your existing software and leverage the tools that already exist in your Mac or PC. Or you can buy software to automate document creation that includes the ability to customize document phrases and clauses based on answers to questions or other logic placed in the template you create.

Automating a document can be as simple as creating a Word template that has certain language already completed, such as making our POA effective on signing, terminating on death, and with pre-defined terms for limitations such as the additional power of making gifts. You can then use simple substitution, such as using double chevrons << >>, to identify information that needs to be added. Using this substitution you can search and replace replaceable variables without worrying about leaving behind another client's details. A better option, in my opinion, is to use add-ins that allow you to answer questions and create the document with the required variables inserted by the add-in.

3.3.1 AUTO-CORRECTION, TEXT REPLACEMENT, AND TEXT EXPANSION

One of the easiest ways to start automating document creation is to use the tools already included in the programs or platform we use daily. For most of us, this will be using text expansion or text replacement. With text expansion or replacement, you

type a special word, series of letters, or characters, and it is replaced with something else, such as a name, phone number, phrase, or even an image. Although there are third-party text expansion programs, you can easily get started using the auto-correction feature built into programs such as Word, Outlook, or WordPerfect or that are included in your operating system such as iOS and OS X.

So what is auto-correction? Open your word processor of choice and deliberately misspell a word as you type. For example, type “teh” in Word and hit the spacebar, Word automatically changes “teh” to “the.” In other words, Word automatically corrects your misspelling. This is auto-correction of text. As with many software features, it may be called something other than auto-correction—Microsoft calls it AutoCorrect while WordPerfect calls it QuickWords. In the end, they all work similarly by changing or replacing the text or characters typed. Many auto-correction tools include preconfigured words and characters for the most common misspellings, while others provide a few examples and let you create your own (as in iOS). But their usefulness does not stop with simply correcting misspelled

words: You can add your own words and corrections to those that are preconfigured. This allows you to start automating document creation using existing tools.

If you find yourself typing the same text over and over again, such as a signature block or a phrase, use the auto-correction feature of your program to automatically insert that language when you use the abbreviated text you assign to that language in the auto correct feature. For example, you can elect to add “vty” to your auto-correction tool and have it replace those three letters with a signature block such as:

Very Truly Yours,

Nerino J. Petro, Jr.

Attorney at Law

Or add “; wfr” to the auto-correction tool and have it replace these letters with:

I will await your response.

3.3.2 AUTO-CORRECTION ONLINE RESOURCES

Here are just a few of the online resources on how to use auto-correction for text expansion and replacement:

Use Microsoft Word's AutoCorrect feature to expand text	http://bit.ly/1JLbiSp
In praise of text expansion (or, how to keep from typing the same thing 100 times)	http://bit.ly/1JLbqBk
Creating formatted AutoCorrect entries in Outlook 2010	http://bit.ly/1AELLWO
QuickWords (WordPerfect)	http://wptoolbox.com/tips/QWords.html
Entering text automatically in WordPerfect	http://bit.ly/1AELUcV
How to set up text substitution in Pages	http://bit.ly/1JLcvsP
Pages for Mac 5.0: Replace text automatically	http://apple.co/1AEM97z

Although the built-in tools provide basic features, you can use third-party programs specifically designed as text expansion tools for even greater functionality. These text-expansion tools allow you to create canned e-mail responses, navigate menu commands such as the Save dialog in a program, and create multiple signature blocks, entire clauses or sections for a

document, and much more. These third-party tools generally provide greater choices concerning the formatting of the text, how much text you can include, and even what actions are taken when you use the tool. The following list (which is not all-inclusive) provides examples of text expansion apps and programs for Windows, Mac OS X, iOS, and Android devices.

3.3.3 TEXT EXPANSION TOOLS

WINDOWS	
ActiveWords	http://activewords.com
AutoHotkey	http://autohotkey.com
Breevy	http://16software.com/breevy
PhraseExpander	http://phraseexpander.com
PhraseExpress	http://phraseexpress.com
MAC OS X	
aText	http://trankynam.com/atext
TextExpander	http://smilessoftware.com/TextExpander/index.html
MAC/IOS	
Typelt4Me	http://ettoresoftware.com/products/typeit4me
Typinator	http://ergonis.com/products/typinator
ANDROID	
Texpend	http://bit.ly/1HD9W55
Text Expander	http://phraseexpress.com/text-expander-android.htm
Textspansion	http://bit.ly/1HD9R1l

Although some of the above tools may be more full featured or offer different capabilities, they all provide basic text expansion that will work with multiple apps and software programs on your device. Also note that Mac OS X, iOS, and some versions of Android include native text expansion. (For an in-depth review of PhraseExpress, check out Wells H. Anderson’s review <http://bit.ly/1GP5zbh>.

3.4 LEGOS® FOR WINDOWS

If you want to be able to create standard clauses, pleading headers, notary or witness provisions, etc., and be able to save those to designated categories (e.g., real estate, wills, family law), take a look at Microsoft Quick Parts. Quick Parts consist of several different parts and are referred to as Building Blocks in Word and Outlook. According to Jim Calloway and Diane Ebersole:

Quick Parts see <http://tinyurl.com/3ctjf4s> is an extremely easy to use tool contained within the 2007, 2010, and 2013 versions of Microsoft Word.

Quick Parts allows you to build a library of “parts” just like the name implies. These parts can be a short phrase, a signature

block, or text that is several pages long. Creating Quick Parts is very simple. Select the text you want to turn into a Quick Part, click on the Insert tab followed by the Quick Parts icon, and “Save selection to the Quick Parts Gallery.”

It is strongly suggested that no matter how sophisticated a document assembly program one might have, the built-in tools of Microsoft Word—particularly AutoCorrect and Quick Parts—should be used to insert items very quickly like a pleading signature block or to generate short routine documents like a fax cover sheet. This operation can be done in just a couple of clicks of the mouse without ever invoking the more powerful word processing and document assembly programs. This link <http://tinyurl.com/3ctjf4s> explains how to do this as well as providing links to building blocks and other more powerful tools. A particular advantage of Quick Parts is that it works in Microsoft Outlook as well, allowing the lawyer to use sophisticated document assembly techniques in e-mails. (Excerpted with permission from “Magic in Minutes—Effective Use of Document Assembly” by James Calloway and Diane Ebersole, updated by Diane Ebersole, Law Practice Today, September 2012 <http://tinyurl.com/8h4ztxp>.

Using Quick Parts, you can “build” your document from clauses or substitute a Quick Part for a standard existing clause in a template. Quick Parts provide more flexibility in formatting and the amount of text captured than Word’s AutoCorrect feature. For WordPerfect fans, QuickWords will do basically the same thing as Quick Parts. (For WordPerfect users, Barry MacDonnell’s Toolbox for WordPerfect site <http://wptoolbox.com> has great tips on

automating WordPerfect documents and much, much more.) One downside to Quick Parts is that, by default, Word and Outlook keep all your Quick Parts in a single location (e.g., all your family law Quick Parts would be found in the same list as all of your real estate Quick Parts). Luckily, you are not forced to keep them all in the same place and can change this default action.

Here are a number of articles on dealing with this conundrum:

Share AutoText and Quick Parts with others	http://bit.ly/1AEZSeM
Share custom Word building blocks with anyone	http://tek.io/1d8eNmZ
Share Quick Parts	http://bit.ly/1d8eQir
There also are numerous general online resources on using Quick Parts, including:	
Microsoft Support site guide to Quick Parts	http://bit.ly/1I600ZI
How-to guide for using Quick Parts in Office 2010	http://bit.ly/1I60TMN
Save time with Microsoft Office Quick Parts	http://bit.ly/1I60XMn
How to create or insert quick parts (reusable entries) in Outlook	http://bit.ly/1I6Pa23
Add, modify, and delete Quick Parts	http://msoutlook.info/question/93
Outlook Quick Parts	http://youtube.com/watch?v=SoM3LBHjB5o
Fun with Microsoft Word Quick Parts	http://youtube.com/watch?v=RI6IIUpgo6M

If you search the Internet on how to use Quick Parts using your favorite search engine, you will find many more resources than the few I’ve listed above. For those of you who use iWork’s Pages for Mac or iOS, I am not aware of any equivalent feature to Quick Parts.

3.5 TOOLS IN PRACTICE MANAGEMENT SOFTWARE AND SERVICES

Most popular on-prem LPMS software (e.g., Time Matters, Amicus Attorney, and PracticeMaster, to name just a few) and cloud-based services (e.g., Clio, Rocket Matter, and MyCase) include differing levels of document automation. Desktop

software includes the ability to use the merge features of Word and even WordPerfect (although integration with WordPerfect is rapidly dwindling owing to its decreasing market share) and templates for both desktop and cloud-based products. With document automation templates in these products, users generally upload a template in Word, Pages, or PDF format (with a very few exceptions, you must first convert WordPerfect templates to PDF). Then using field codes provided by the software or service, users can import variable data from the software or service to create the document. Generally, these features rely on set templates based on built-in logic and with no alternative clause selection or substitutions, except in some of the desktop products. Learn more at the following links:

Amicus Attorney	http://bit.ly/1AF4FwR
Clio	http://bit.ly/1AF3ItS
MyCase	http://bit.ly/1AF3rl7
PracticeMaster	http://bit.ly/1AF3FbT
Rocket Matter	http://bit.ly/1AF3u0b
Time Matters	http://bit.ly/1AF3SvP

3.5.1 WORD ADD-INS

These products are designed to install within Word to add document assembly and automation features. The two products covered in this category are Pathagoras and TheFormTool/Doxserá. Although not as full featured as a stand-alone product such as HotDocs, they provide much of the same functionality while being significantly less expensive and complex, so they are much easier to set up and begin using.

Pathagoras <http://pathagoras.com> allows you to get started quickly by taking your existing documents and creating the variables by placing [] brackets in your document. Inside the brackets, you type the name for the variable. Pathagoras calls this “plain text” document automation as you are simply surrounding text with the brackets—there is no use of field codes or other scripts to identify the variables. These brackets and plain text serve as placeholders in the template for the actual information to be inserted.

For example, to create a simple letter to a client, your variables would look like the following:

[Date of Letter]
 [Client Name]
 [Client Address]
 [Client City], [Client State] [Client Zip Code]
 RE: [Regarding]
 Dear [Salutation]:

Thank you for returning your signed representation agreement and advanced fee of \$[Advanced fee amount]. We will be sending you the completed documents by [UPS/FedEx/US Postal Service] when complete in the next 10 days.

Very truly yours,

[Attorney Name]

One of the nice features with Pathagoras is that you do not need to start from scratch if you already have a document you want to use as your model. Open that document and place the text that you wish to be a variable in brackets. Then replace the text inside the brackets with the variable name, for example replacing Mary Smith with [Client Name]. Pathagoras also has the ability to select multiple instances of the same variable once and turn all instances in the document into a variable without the need to select each and every instance and adding brackets and the plain text. So if you have a document that has a company name in it multiple times, you can select the first instance of that name and, using the Create Variables Assistant, Pathagoras will select all instances of that name and replace all of them with the new variable. Pathagoras allows you to save the information that you use to replace the variables within its “Instant Database System” so you can reuse it for other documents at a later date. You can also create Interviews to help you with selection of alternate clauses and provisions as well as complete multiple documents at the same time. Pathagoras also allows you to link to other database sources to pull in information that you may already have in a practice management or time-and-billing program. However, this is not a feature that is widely used and may be more than you need—at least when you begin automating your documents. Pathagoras has some very complex logic and other capabilities hiding beneath its surface and continues to be improved regularly.

Pathagoras offers a 90-day free trial and has also recently added a cloud version called Pathagoras on Cloud (pathagoras.mobi). Pathagoras on Earth (the desktop version) starts at \$379 for the first user with discounts for additional users and offers an annual maintenance plan after the first year. You can also subscribe on a monthly or semi-annual basis. Pathagoras on Cloud offers a 30-day trial and starts at \$30 per user per month. Discounts apply for additional users.

TheFormTool <http://theformtool.com> and its sister cloud product Doxserá are also Word add-ins and integrate with Word versions 2007 and later. TheFormTool helps you create what it

calls “smart forms” using a two-step process: Step One is to create a Q&A table that asks questions of the form preparer, and Step Two is to add fields to the form where the answers from the Q&A table are placed in the form. Unlike Pathagoras, you do not simply place brackets around a name to create the variables. However, in some ways TheFormTool method of document automation—with its ability to add complex logic and nested variables—provides more powerful tools than Pathagoras. It also allows you to create easy-to-understand questions for the document preparer to answer, along with the ability to add reminders or descriptive information for each field in the Q&A table.

To use TheFormTool to create the same simple letter we created above with Pathagoras, you first create your Q&A table (see Figure 3 below). The labels here have been placed in the order they appear in the sample letter. If you prefer to group them together putting critical information first—such as names and addresses followed by dates and other information—you can do so. TheFormTool provides video tutorials and help guides on how to do this on its website.

Label	Question	Answer
LtrDate	What is the date of the letter? <i>(Format: m/d/yy)</i>	[??]
ClientName	What is the Client's Name?	[??]
ClientAddr	What is the Client's address?	[??]
ClientCity	What is the Client's City?	[??]
ClientState	What is the Client's State?	[??]
ClientZip	What is the Client's zip code?	[??]
LtrRegarding	What is the letter regarding?	[??]
ClientSal	What is the name you call the Client?	[??]
AdvFee	What is the amount of the advanced fee due? <i>(Don't type \$)</i>	[??]
SendMethod	What is the delivery method of the documents? <i>(3 Choices: UPS/Fedex/USPS)</i>	[??]
AttyName	Name of the attorney signing the letter	[??]

Figure 3

Step two is to put in your fields in the document, which ends up looking like this:

{LtrDate}

{ClientName}

{ClientAddr}

{ClientCity}, {ClientState} {ClientZip}

RE: {LtrRegarding}

Dear {ClientSal}:

Thank you for returning your signed representation agreement and advanced fee of \${AdvFee}. We will be sending you the completed documents by {SendMethod} when complete in the next 10 days.
Very truly yours,

{AttyName}

TheFormTool™ (c) 2011-2015 Snapdocs, Inc.		
Label	Question	Answer
Date	What is the date of the letter? <i>(Format: m/d/yy)</i>	6/1/15
ClientName	What is the Client's Name?	Mary C. Smith
ClientAddress	What is the Client's address?	800 N. Church Street
ClientCity	What is the Client's City?	Rockford
ClientState	What is the Client's State?	IL
ClientZip	What is the Client's zip code?	61103
Letter Regarding	What is the letter regarding?	Preparation of Deed
ClientSalutation	What is the name you call the Client?	Mary
AdvFee	What is the amount of the advanced fee due? <i>(Don't type \$)</i>	500.00
SendMethod	What is the delivery method of the documents? <i>(3 Choices: UPS/Fedex/USPS)</i>	UPS
AttyName	Name of the attorney signing the letter	Nerino J. Petro, Jr.

Figure 4

You next fill in the “Answers” on the Q&A table (see Figure 4 above). Finally, you click the Fill button in TheFormTool toolbar on the Word ribbon, which results in the following:

June 1, 2015

Mary C. Smith
800 N. Church Street
Rockford, IL 61103

RE: Preparation of Deed

Dear Mary:

Thank you for returning your signed representation agreement and advanced fee of \$500.00. We will be sending you the completed documents by UPS when complete in the next 10 days.

Very truly yours,

Nerino J. Petro, Jr.

TheFormTool has been joined by Doxserá, which is its cloud-based sibling. Doxserá adds the ability to populate multiple documents simultaneously using the same Q&A table. Unlike Pathogoras, TheFormTool and Doxserá currently do not allow you to use data found in other programs and databases, but the soon-to-be released Doxserá DB is supposed to add these capabilities. TheFormTool offers a free version that has basic functionality so that you can try it and see if it will work for you. The free version is yours to keep. If you like TheFormTool and want to get even greater functionality, TheFormTool Pro is \$89 per user for a lifetime license. Doxserá is \$89 per user per year. The upcoming Doxserá

DB is listed at \$279 per user per year. Several bar associations are offering member discounts. For Mac users, TheFormTool/Doxserá can be installed on a Mac running Mac OS X 10.9 Yosemite; if you don't want to install it yourself, TheFormTool folks will do it for you for around \$350 <https://bit.ly/1GP5RPf>. For a full comparison of the features of the free and Pro versions of TheFormTool, Doxserá, and Doxserá DB, see the comparison chart at www.theformtool.com/support/comparison. Expect to see CLE and other providers offering form templates for TheFormTool and Doxserá. In fact IICLE is already doing so

3.5.2 OTHER DOCUMENT AUTOMATION TOOLS

There are a number of other desktop and cloud-based document automation tools. Many of these such as HotDocs <http://hotdocs.com> XpressDox <http://xpressdox.com> Exari <http://exari.com> ProDoc <http://prodoc.com> and ContractExpress <http://bit.ly/1GOXSSI> to name just a few, are more powerful than Pathogoras and TheFormTool/Doxserá. Some are free-standing tools that run on their own, outside of Word. However, with that power comes greater complexity, higher purchase and deployment costs, a steeper learning curve, and the need to employ a consultant to get the most from the product. Companies that assist with these types of products and deployments include Basha Systems <http://bashasys.com> and Capstone Practice Systems <http://capstonepractice.com>.

There are also premium subscription-based services available, typically delivered online. These solutions provide standard document language, clauses, and terms that are bundled with the document assembly process. These solutions generally focus on a specific practice area, and you are paying for the well-drafted clauses and documents as well as the speed and efficiency of the

document assembly process itself. Some examples of these would include Cowles Trust Plus for estate planners <http://tmsnrt.rs/1GOZKKN> AIA Contract Documents by the American Institute of Architects <http://bit.ly/1GOZNWX> and WealthDox from WealthCounsel for estate planners <http://bit.ly/1GOZPhD> to name a few.

A product that was announced at ABA TECHSHJOW 2015 in April is a tool from Leaflet Corporation <http://www.leafletcorp.com>. Like Pathagoras and TheFormTool/Doxserá, it is a Word add-in, but it goes beyond that. Billing its product as “collaborative document

automation,” Leaflet provides capabilities including Q&A tables (called Leaflet Interviews and also Word questionnaires), which can be placed on your website for clients to complete online or that you can share, electronic signatures, and more. Leaflet uses a subscription model, and according to its founder, Sam Muthusamy, it will be affordable for smaller firms. From a brief demonstration, Leaflet holds a lot of promise in this market space.

There are a number of other products that can be used for document automation. The following is not an all-inclusive list but provides information on many of the products that are available:

DataPrompter	http://wordsite.com/products/dpdas.htm
Docasaurus	http://docasaurus.com
DocXtools for Legal	http://bit.ly/1GP2Mic
draftonce	http://draftonce.com
MacSimplePrompter	http://wordsite.com/products/sp.htm
Smokeball	http://smokeball.com
SmoothDocs	http://smoothdocs.com
Westlaw Doc & Form Builder	http://tmsnrt.rs/1GP1Vy2

3.6 DOCUMENT ASSEMBLY WRAP-UP

There is no reason for lawyers and their staff not to take advantage of today’s document automation tools. These tools exist for every need and at every price point, ranging from the free and basic to the expensive and complex. The improved efficiency and effectiveness these tools bring to the legal practice will not only reduce potential embarrassment and malpractice but will have a direct and positive impact on the bottom line.

3.7 SHARING FILES WITH OTHERS

With our reliance on email, electronic files and digital communications, lawyers and their staff find the need to collaborate on documents and share information with others continuing to grow. While sharing documents by email works with smaller files, limitations in your own email service as well as limitations on the recipients email service regarding attachments and size limitations on attachments often prevent sharing documents easily. Too often, we try to send a file and receive an error message that it was able to be received or that have been rejected because the attachment exceeded the file size limit. Luckily, lawyers and their staff have many options today for online file storage and sharing that helps mitigate or eliminate these issues.

3.7.1 USING THE CLOUD TO STORE AND SHARE FILES

Just like general society, the legal profession is becoming more and more mobile with the need to access documents on the go was necessary. The ability to share the information as stated above is also becoming more critical to the daily operation of a technologically oriented law office. The ability to review files and correspondence during client meetings, the ability to pull up a client file as needed or to share information in electronic format quickly and easily have all become a critical part of a modern legal practice. These services go beyond simply storing and sharing files will become an integral part of your workflow allowing you to improve quality of service as well as your efficiency and effectiveness in serving your clients.

Modern cloud-based technologies mean that lawyers no longer need to store all the information on an expensive on-site server (that needs to be replaced on a regular basis or that makes it difficult to access that information when they’re out of the office). While there are any number of cloud-based storage and sharing services, they are not all created equal: some are easier to use but are less secure while others are more secure but not as user-friendly. As with any cloud-based or on premise technology, lawyers need to understand the locations of using this technology in their practice. This includes understanding the security features available and how best to use them to meet their obligations

under the rules professional conduct and other regulations or laws pertaining to the safekeeping of personally identifiable or confidential information. Bottom line, just as with any other service lawyers must do their due diligence in selecting a cloud-based file storage and sharing service to ensure avoiding the risk of ethical violations and malpractice claims.

3.7.2 WHAT TO LOOK FOR IN CLOUD STORAGE AND FILE SHARING SERVICES.

There are a number of factors to consider when evaluating potential candidates for cloud storage and file sharing. From a lawyer's perspective, most critical should be security of the service and the documents stored in it. Too often, lawyers focus on services that are the easiest to use without considering what this means to the security implications of their information. Generally, there is a trade-off between ease-of-use and security: each lawyer must weigh the trade-offs that are presented between ease-of-use and security of the different services available. Here are some of things you need to consider when it comes to security for cloud-based storage and file sharing services:

- Is the data encrypted while on the services servers (commonly referred to as "data at rest") and is it encrypted while being transferred between their servers and your computer or anyone else's (commonly referred to as "data in transit")?
- Does this service use 256 bit encryption both for data at rest and data in transit?
- Does the service offer what is commonly known as "zero knowledge" security wherein you the user control the encryption key without which no one else can decrypt your data?
- Is your data encrypted before it leaves your device?
- If the company does not provide for zero knowledge security, are the encryption keys and your data stored on separate servers?
- Does the service provider have a policy in place regarding who has access to your data and when it may be accessed?
- Does the service provider provide you with the ability to remotely delete your information from any device attached to your account?
- When sharing files with others, can you add an additional level of protection through the use of a password without which they cannot access the file?
- In order to access the information you wish to securely share, does the service require the recipient to sign up for an account in order to access the information?

- Does the service provide for auditing of who accesses the service and your files?

While the ideal service would meet all of the above criteria, the reality is that we don't live in a perfect world and we often must weigh the potential risks and benefits in selecting a service. An example of this is widespread adoption use of Dropbox by lawyers and their staff.

Dropbox is one of the most popular document storage and sharing services because it is one of the easiest to use. Dropbox allows you to synchronize files across multiple devices and platforms and just plain works. The downside to Dropbox is that you have no control over the encryption key and your options for sharing files securely are limited. The encryption key used to encrypt your data is controlled by Dropbox which potentially means that their staff can decrypt your data pursuant to lawful authority or in the event an employee with access goes rogue. In all fairness to Dropbox, and other services that control the encryption key, it does allow the company to help you decrypt your files in the event you forget your account access password. Where you control the encryption key, if you forget that encryption key no one, including the company, can help you decrypt those files. Furthermore,, many in the legal technology world believe that the concerns over a provider controlling the encryption key is overblown: lawyers have entrusted their files to couriers and offsite storage providers for years, and this is much the same as we rely on others to protect our data.

In reality, I recommend that you not use Dropbox without additional encryption tools to store and share your confidential or privileged information; you do not want to appear in your local newspaper as the lawyer whose data was breached because you focused on a service that was the least expensive rather than the one that provided sufficient security to protect your information. Tools such as Sookasa www.sookasa.com Viivo www.viivo.com Boxcryptor www.boxcryptor.com CloudFogger www.cloudfogger.com and SafeMonk www.safemonk.com work with Dropbox as well as other less secure online storage and sharing services such as Google Drive and Microsoft OneDrive. These tools all offer varying levels of ease-of-use and security when sharing files and you should check and see if they provide sufficient controls that you are comfortable using them to communicate information with others. For example, with Sookasa, you can share a link with an outside user which expires after 15 minutes after they click the email.

Other services such as SpiderOak www.spideroak.com Citrix ShareFile www.sharefile.com Hightail www.hightail.com and Egnyte www.egnyte.com to name just a few, provide higher levels of security for storage and for file sharing and may also

include zero knowledge capabilities. For a comparison of a number of online file sharing and storage services, check out the 2015 Best Online File Sharing Services Review at <http://bit.ly/1KFspzD> and The Best Cloud Storage Services for 2015 at <http://bit.ly/1KFsDXj> for non-exclusive lists and reviews.

The reality is that as with any cloud service technology, lawyers must do their due diligence to ensure compliance with the applicable rules of professional conduct. For more information on this and the Rules of Professional Conduct that apply to cloud computing, ethics opinions from around the country and due diligence checklists, see Appendix A at the end of this paper.

3.8 FASTCASE

The full Fastcase 2015 User Guide can be downloaded from the bonus materials webpage detailed at the bottom of the Table of Contents along with the Fastcase Quick Reference Guide which follows on the next page.

THE QUICK REFERENCE GUIDE CAN ALSO BE DOWNLOADED DIRECTLY FROM FASTCASE

<http://www.fastcase.com/introducing-the-fastcase-quick-reference-guide>

THE FASTCASE USER GUIDE CAN BE DOWNLOADED DIRECTLY AS WELL AT:


<http://bit.ly/1V3qSuq>

fastcase® **Fastcase Quick Reference Guide | 2012**
Smarter legal research.

Locating a case by keyword
To pull up a document by keyword, use **Advanced Caselaw Search** and formulate your search query using one or more of the 7 Boolean operators listed at the bottom of this sheet.
Tip: Start with a broad search and then use Fastcase's sorting and filtering tools to find the document you are looking for. If you are not sure where to start, a natural language search may help point you in the right direction.

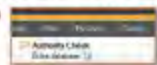
Locating a case by party name
Try performing a keyword search using the following format: *Plessy v. Ferguson*. You can use **Quick Caselaw Search** or **Advanced Caselaw Search**.
To pull up *Plessy v. Ferguson*, 163 U.S. 537 (1896), type *Plessy v. Ferguson* into the search box.
Tip: This works best when parties have less common names.

Locating a case by citation
Type in the volume number, reporter abbreviation and first page number of the case. You can use **Quick Caselaw Search** or **Advanced Caselaw Search**.
To pull up *Plessy v. Ferguson*, 163 U.S. 537 (1896), type *163 U.S. 537* into the search box.
Tip: You can enter up to 20 citations at once, separated by commas.


Printing a document 
To print the document that you are viewing, start by clicking the **Print/Save** link at top right hand side of the screen.
When you get to the **Print Document** screen make your formatting selections (e.g., pdf, doc, rtf) and click **Print/Save** again.
The document will begin downloading to your computer. Once the document has downloaded, you can open and print the document using the appropriate software program (e.g., MS Word, Adobe Acrobat, Word Perfect).

Sorting search results
To sort your search results, click on any column heading on the **Results** page. For example, clicking on **Decision Date** will sort your results in chronological order.

Filtering cases by jurisdiction
To filter your cases by jurisdiction, click the down arrow on the **Jurisdiction Filter** at the top left side of the screen, and select the jurisdiction you want from the drop down menu.

Generating a list of later citing cases
To generate a list of cases that cite the case you are viewing, click the hyperlinked number under the **Authority Check** heading on the top left hand side of the screen.
An **Authority Check Report** with a list of later-citing cases will open in a new tab or window in your browser. 

Browsing statutes in Outline View
Start by selecting **Search Statutes** from the **Search** menu and then select the **Browse** tab. Select the code you want to browse by clicking on the plus sign to expand the view. Expand any section by clicking on the plus sign. To view the statute, click on the statute title.

Batch-print multiple cases 
Start by adding cases to your print queues, either by clicking on the **Add to My Print Queue** link when you are viewing a case or by clicking the **Print Queue** icon from the results page.
Then select **View Print Queue** from the **Print** menu. On the next screen, review the cases on the list, make your formatting selections and click **Print/Save** to begin downloading the document to your computer.

Boolean Search Operators

Symbol	Example	Result
AND	copyright AND free internet	cases with both keywords "copyright" and "free internet"
OR	bankrupt OR lesser	cases with either the word "bankrupt" or "lesser"
NOT	charitable trusts NOT management	cases with "charitable trusts" and "not" before "management"
()	charity OR (pledges AND assignment)	cases with either "charity" or "pledges" and also the word "assignment"
~	"family member"	cases with "family member" and also "not" before "member"
w/3, /3	capital w/2 punishment	cases in which the word "capital" appears within 2 words of the word "punishment"
*	insig*	all cases containing "insig" at the end of the word "insig"

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This one is easy—visit us online at www.fastcase.com anytime, or call 1-866-773-2782 from 8a-8p Eastern time M-F, excluding holidays.



4 Working Outside of the Office

Unlike just a few short years ago, lawyers no longer need to be tethered to their office to use their technology effectively. Gone are the days of needing a remote connection over a dial-up modem or even using remote control software to access files or programs. Lawyers and their staff have the ability to choose from any number of smart, connected devices to access resources including documents, legal research and practice management tools from anywhere they can access the Internet. And since the majority of smart phones now include some type of mobile data, as long as they have service they have access to the Internet. Your phone is no longer just a device to use for voice communications but can now serve as a central hub for data, research and Internet connectivity which can be shared with your other devices. Combined with a tablet of your choice, and you have the ability to work almost anywhere at any time.

4.1 WHAT COMES FIRST – THE TABLET OR THE SOFTWARE?

While it is great to start out by purchasing a new tablet or computer, the first place you should always start is what software are you going to need for your practice and what are its requirements? Once you know the software and the hardware that will be required to run it on, only then should you go out and make a decision to purchase a tablet or computer. If you plan on using your tablet a lot for hearings and trials, then consider the following:

4.1.1 IPAD AND ANDROID

If you are in court quite a bit and do trials or arbitration and wish to use a lightweight device to argue your case or position, the Apple iPad is still the hands-down leader when it comes to legal specific applications for use by lawyers. Apps such as TrialPad, TranscriptPad and DocReviewPad <http://www.litsoftware.com/trialpad> TabLit Trial Notebook <http://apple.co/1NOiE5l> iJuror <http://www.front9technologies.com/ijuror.html> Arbitration Manager <http://apple.co/1NuAXQ1> and Trial Director <http://apple.co/1NOiISq> are just a few of the apps available, often with multiple offerings from different companies. While there are Android apps for lawyers, the offerings are much more limited and may only offer one app in a given niche such

as jury selection iJuror <http://bit.ly/1NSkxxW>. Check out these online articles from Lawyerist for more information on legal apps for iPad and Android:

- Every Legal App for iPhone and iPad <http://bit.ly/1NOjeJB>
- Every Legal App For Android <http://bit.ly/1NOjgrD>

4.1.2 WINDOWS

When it comes to Microsoft Windows, this is a bit different: for the most part, software that runs on your Windows desktop or laptop will run on your Windows 8, 2-in-1 device or tablet (so long as it is not running Windows 8 RT). So if you have CaseMap or TimeMap from LexisNexis, it will run on your Windows 8 or 10 device. If you use MasterFile <http://www.masterfile.biz> for litigation management or Trial Director 6 <http://bit.ly/1JKTMhd> for trial presentation, they will run on the Windows devices (assuming you have sufficient storage). If you use Digital WarRoom <http://www.digitalwarroom.com> for e-discovery, it runs on your Windows computer. The same goes for PowerPoint or other software for lawyers designed for Windows. And unlike many of the apps designed for iOS and Android tablets, the software that runs on Windows is full featured and not “lite” versions.

4.2 CAN I MAKE THE WRONG DECISION?

While one tablet operating system may be better for specific practice areas than another due to the availability of legal specific apps, accessories or other features, the reality is that any modern tablet can provide sufficient functionality to work on files, perform legal research and present information to arbitrator, group or court. While there may not be as many legal specific apps for Android as iPad, if you are not always doing trials or hearings, then there is no wrong choice. To expand on this, let us consider what is absolutely necessary in a tablet to work effectively outside of the office.

4.2.1 WHAT MAKES AN EFFECTIVE TABLET?

In order to be truly effective, your tablet needs to not only be a device to consume information but needs to be a device that also allows you to create and modify information that you receive. Your tablet needs to be able to access information from both

internal and external sources such as cloud-based storage. Your tablet needs to be able to allow you to convey information and presentations to others the practice your profession. What this means, is that you need the ability to access your information whether - that information is in the form of a word processing document, a spreadsheet or PDF file or email. Most likely, if you are working with these types of files, they will most likely be in a Microsoft office format of Word, Excel or PowerPoint. You can also work with RTF (Rich Text Format) files or if using an iPad, with files in Apple's Pages, Keynote or Numbers format. The one format you can't modify or create on Android or an iPad is WordPerfect: you can only open WordPerfect files using one very specific app and not edit or create this format. On a Windows tablet, WordPerfect is an option using WordPerfect itself, or a converter in MS Office or one of the open source office suites.

4.2.1.1 WORKING WITH MICROSOFT FORMATS.

Many apps exist that allow compatibility with Microsoft Word, Excel, and PowerPoint files. Office suites for Apple and Android devices have been around for many years, and companies have worked diligently to improve the compatibility of these tools when working with MS Office files. Word and Excel are the de facto document standards for word processing and spreadsheets in the business and legal world today. Although these third party products may still not provide 100% compatibility with every MS Word and Excel file, a lawyer can access a file from the office and make changes and corrections or draft new files on the go using them.

The iPad has its own Works suite consisting of Pages, Numbers, and Keynote. Other popular iPad office suites include SmartOffice 2 <http://smartoffice.artifex.com> DocsUnlimited <http://apple.co/1NSgjGm> OfficeSuite Professional <http://bit.ly/1NSgxNN> and Documents to Go <http://bit.ly/1NSgLVk>. OfficeSuite Pro and Documents to Go are also available for Android. Windows 8 can run full-blown MS Office or run versions designed for the modern user interface, which is more like an app. On Windows 8, you can also run free products such as LibreOffice <https://www.libreoffice.org> and Kingsoft Office <http://www.kingsoftstore.com>. However, if you use the MS Office product designed for your device, you will get the best compatibility and avoid potential problems when converting from one suite to another.

The availability of Microsoft Office online <https://www.office.com> MS Office Mobile for Android <http://bit.ly/1NSIOVD> and Office for the iPad <http://bit.ly/1NSIWEv> signaled a paradigm shift for lawyers. Lawyers can now work on multiple operating system platforms and still work with Word and Excel files in their native formats and in their actual programs. You can begin drafting a document on your Windows PC and then complete it on your Android tablet or iPad.

4.2.1.2 WORKING WITH PDF FORMAT.

Working on PDF files is also a capability that Android, Apple and Windows tablets all offer including the ability to add annotations, highlight text and add digital signatures along with other additional features. This is especially important as PDF has become the de facto if not de jure filing standard for documents in federal courts as well as other agencies. For iPad, PDF apps include iAnnotate PDF <http://apple.co/1NSmvy6> PDF Expert 5 <http://apple.co/1NSmA50> and GoodReader <http://apple.co/1NSmMkM>. For Android, ezPDF Reader <http://bit.ly/1NSn8Yx> and RepliGO PDF Reader <http://bit.ly/1NSniiz>. For Windows, Adobe Acrobat www.adobe.com Nitro PDF Pro <https://www.gonitro.com> Nuance PowerPDF <http://bit.ly/1NSnpL4>.

4.2.1.3 WORKING WITH EMAIL.

When it comes to email, all the tablet operating systems are equally adroit at accessing not only pop email accounts but Microsoft exchange and other enterprise level email servers. This allows you to stay in communication with your office as well as clients and other attorneys while on the go using the communication medium which has become an integral part of the modern law practice. For iPad, consider Boxer <http://apple.co/1NSnDlv> Outlook <http://apple.co/1NSnRjD> and Spark <http://apple.co/1NSnT3U>. For Android, TouchDown HD <http://bit.ly/1NShc1V> Aqua Mail <http://bit.ly/1NSo92V> and Google InBox <http://bit.ly/1NSohQ3>. For Windows, Outlook and Thunderbird <http://mzl.la/1NSosLd> are two options.

4.2.1.4 CLOUD STORAGE AND SYNCHRONIZATION.

Being able to work on a file presupposes that you can access those files whether from internal or external storage sources. This is one area where the iPad becomes a bit more problematic as it does not allow you to create a folder structure on the device itself. With the iPad you are limited to using iTunes to transfer files from your computer to the iPad to be opened only in their specific apps. Android and Windows tablets allow you to create nested folder structures and to copy and move files much as you do on your Windows desktop. Furthermore, Android and Windows tablets allow you to add additional storage through the use of readily available SD cards as they incorporate memory card slots. However, while Apple differs in this regard from Android and Windows tablets and devices, this is where cloud-based storage at capabilities makes working with all three tablet operating systems very similar and removes many of the limitations of working with an iPad for file storage.

Cloud-based file synchronization and storage services such as Dropbox www.dropbox.com Google Drive <https://www.google.com/drive> Sharefile <https://www.sharefile.com> OneDrive

<http://1drv.ms/1NSoJOD> Box.com box.com and others have eliminated the need to transfer files to a tablet while in the office or to put them on a USB flash drive (getting files from a flash drive to an Android or Windows tablet can be done, but may require an adapter or special flash drive). With improvements to the Internet and widespread deployment of Wi-Fi and cellular broadband, lawyers are no longer tethered to a phone line to remotely access information. Modern cloud services have put access to documents within a few taps on the screen or keyboard and automatically synchronize to the office. This is especially important because the iPad natively only allows you to place files on the iPad using Apple iTunes; anyone who has done so knows this is a less-than-optimal solution.

With a Wi-Fi connection, you can transfer documents to and from your tablet and even make them available on the tablet when you do not have an Internet connection, using techniques such as making a file a favorite in Dropbox. Unlike a full Windows or Mac computer, tablets have limited storage space, so if these cloud-based services synchronized the actual files rather than just the file names, you would quickly run out of storage on your tablet. Most of the popular cloud-based services have some type of offline-access capability.

For examples of many, but by no means all, of the available cloud storage and synchronization services, refer to Appendix B.

4.2.1.5 WORKING WITH PRESENTATIONS.

Finally, for a tablet to be truly effective for a lawyer is the ability to use it to present information, ideas and evidence in various settings from meetings to arbitration hearings and even trial. While legal specific apps and software can be of great benefit, thousands of lawyers every day are able to present the basic information they need to convey using presentation apps such as Apples Keynote, Microsoft's PowerPoint for tablets and Documents to Go for Android. In addition to apps that you install and run on your tablet, there are also a number of Internet-based presentation Services that are platform agnostic such as Prezi <https://prezi.com> and Slide Shark <https://www.slideshark.com> to name just two. All of these products allow you to create, edit and modify slides and presentations either from an existing file created on a PC or Mac or that are created on the tablet. However, if you are looking for lightweight, easy to use apps for presentation at arbitration hearings or trial, than the best choice may still be the iPad as it has the most available legal specific apps that won't break the bank.

Two of the best and most widely used iPad apps for trial are TrialPad, for trial presentation; and TranscriptPad, for transcript review. While these apps are costly – originally priced \$89.99 each – the latest version of TrialPad is now \$129.99 while TranscriptPad remains at \$89.99. However, they are much less

costly (although with fewer features) than something like Trial Director 6 or Limine for Windows. Furthermore, the lawyers who use TrialPad and TranscriptPad rave about them.

Two other iPad apps in this market niche are from a company here in Illinois. Second Chair Mobile for Trial and Second Chair Jury for jury selection (<http://secondchairmobile.net/>) come from Attorney Roger Clayton at Heyl Royster and his company Clayton Creations, LLC. Both are impressive in terms of their number of features and ease of use. Other iPad-specific trial and jury apps include ExhibitView, JuryPad, and iJuror.

4.2.2 OTHER TOOLS YOU NEED FOR YOUR TABLET.

4.2.2.1 KEYBOARDS.

To complete your mobile technology, the addition of several key peripherals can make your mobile life much easier. The iPad and Android tablets were originally designed to use their own on-screen keyboards. The on-screen keyboard may be good for typing short emails or documents, but nothing beats a physical keyboard for being productive on the go. Today's tablet users have several options when it comes to keyboards. You can purchase a portfolio case for iPad and Android tablets that incorporate a Bluetooth keyboard into the cover as well as stand-alone portable keyboards. To get an idea of how many options you have, here is a search on Amazon for iPad keyboards <http://amzn.to/1NUnNZZ>.

Asus introduced the concept of a detachable keyboard with its 10" Transformer Prime Android tablet and keyboard. When connected, the device resembles a very small notebook computer. Logitech created one of the most popular keyboards for the iPad with its ultra-thin keyboard cover (see <http://amzn.to/1NSB0Es> for examples). At the same time Microsoft introduced its Surface tablets, it introduced two different keyboard covers (see <http://amzn.to/1NSB9HU> for examples). Users now have the benefit of an actual keyboard without adding significantly to the weight or bulk of the tablet.

4.2.2.2 CABLES AND ADAPTERS.

In addition to a keyboard, you need to be able to send your presentation or documents to an external monitor or projector. How you do this will depend on the tablet that you are using. You have two options for any tablet: wired or wireless.

Wired connections will require a cable and possibly an adapter. You will need to check the specifications for your tablet to see what type of connection is used to connect using a cable; for example, the Surface Pro 3 connects using a Mini-Display port cable. If your screen or projector does not have Display Port input, then you will need an adapter to convert from the Mini-Display Port slot to HDMI, DVI or VGA formats. Android devices may or

may not include a separate video output port. Most use what is known as MHL (“Mobile High Definition Link”) which requires a cable to convert from your device’s Micro USB port. MHL cables are available to output your signal to HDMI, DVI and VGA formats. Your Windows tablet may include a Mini DisplayPort, HDMI or Mini HDMI port. iPads require an adapter that will convert to either a digital or analog output (DVI or VGA). There are a number of adapters available that will allow you to convert from say an HDMI cable to VGA, or DVI to HDMI available from online resellers such as Amazon.com and Monoprice.com. For some examples go to <http://amzn.to/1NUnSwm>.

For Windows and Android users, depending on the projector and its wireless capabilities, you may be able to connect wirelessly using Intel’s® WiDi (“Wireless Display”) or the open standard Miracast™ solution to the projector or screen. There are also proprietary solutions from companies such as Epson that allow you to connect your tablet to one of their projectors over Wi-Fi.

If you use an iPad, then you need to use Apple’s own AirPlay and an Apple TV or one of the software solutions such as Reflector (<http://www.airsquirrels.com/reflector/>) or AirServer (<http://www.airserver.com/>) to connect your iPad to a PC based system like a Windows tablet and then connect that to the screen or projector. Or use AirPlay to connect to your Mac and connect that to the screen or projector.

If you are going to be using your tablet for presentations then it is a good idea to get both a wired connector and a wireless adapter that you can use. For Windows and Android, consider the NetGear Pust2TV <http://bit.ly/1NSHl5o> or Actiontec ScreenBeam Pro <http://amzn.to/1NSHSEI>. Refer to Appendix B for a sampling of available adapters.

4.2.2.3 DOCUMENT CAMERA STANDS.

Another handy peripheral device is a tablet stand that allows you to convert your tablet into a document camera. There are a number of stands that work with many tablets. Here are some examples of stands that will work with most tablets up to 11 inches:

Dewey <http://bit.ly/VGRmYK>. The Dewey document stand is an easy to assemble stand that can hold your tablet in a number of different ways.

Justand 2 <http://ipaddocumentcamera.com/pages/justand-v2>. Justand 2 is hands down my favorite document camera stand for the iPad and Android tablets. With great construction and features, Justand 2 works as a camera stand and as a tablet holder that folds down and can be taken with you. Justand has also released its Justand Go for a more portable option <http://ipaddocumentcamera.com/products/justandgo>.

Belkin TabletStage <http://bit.ly/VGRGqy>. The TabletStage turns your tablet into an interactive presentation tool. The TabletStage is the most expensive of the camera stands and does not come apart for easy transportation. Belkin has also created the Belkin Stage app <http://bit.ly/VGRWpz> to work in conjunction with the TabletStage stand. Belkin has also recently released the Portable TabletStage <http://bit.ly/1JL7aSp> for a more portable option.

For larger tablets like the Surface Pro 3, you should look to the JustandGo <http://ipaddocumentcamera.com/products/justandgo> or the Belkin Portable TabletStage listed above.

4.3 ADDITIONAL TABLET USES IN YOUR PRACTICE.

So lawyers can now take one device that weighs less than three pounds and have access to their calendar, contacts, files, apps or programs, Internet access, email, and more. As previously stated, iPad and Android-based tablets only run apps specifically designed for them, Windows Surface Pro and similar tablets run the full version of Windows 8.1 or Windows 10. But what are some other uses for tablets in your day-to-day practice?

Use your tablet to have a potential client or a new client complete their intake questionnaire in the office or when you are out of the office meeting with them. You can use tools such as FormConnect <http://www.formconnections.com> for the iPad to create an intake questionnaire that the person can complete on your iPad. The information can then be exported and sent to your computer to be imported into your practice management system or Outlook. You can also create a PDF form that they can complete in Adobe Acrobat or NitroPDF for Windows or in one of the many PDF apps for iPad and Android. Or use a tool to create online forms to capture this information and export it to your office system. The online tools work not only with iPads but also Android and some with Windows tablets as well, including FormStack online <https://www.formstack.com> TypeForm <http://www.typeform.com> JotForm <http://www.jotform.com> and others.

If you prefer, you can collect this information on a PDF form and capture the person’s signature. On the iPad, try PDF Expert. On Android, try RepliGo PDF Reader or ezPDF Reader. On Windows 8.1, try Nitro Reader. In addition to using your own PDF forms or documents, these tools also allow you to open a PDF sent or generated by another person and add annotations, highlighting, and even signatures.

On the iPad, these types of third-party apps usually give you access to cloud storage services so you can overcome the limitations that Apple places on the ability to store files on the iPad. Several apps are available for these purposes, and recommendations can be found at sites such as: Tom Mighell’s

iPad 4 Lawyers blog <http://bit.ly/1NSf4qP> Jeff Richardson's iPhone JD blog <http://www.iphonejd.com> Scott Grossberg's The iPad Lawyer blog <http://bit.ly/1NSfdue> and Jeff Taylor's The Droid Lawyer blog <http://thedroidlawyer.com> to name a few.

Your tablet also works with numerous voice-over-Internet-protocol (VoIP) services such as Skype www.skype.com Vonage www.vonage.com 8x8 www.8x8.com and others, using

either their native apps or a third-party soft-phone app such as X-Lite (free) <http://www.counterpath.com/x-lite> and Bria (paid) <http://www.counterpath.com/bria>. With a Wi-Fi connection and one of these services and apps, your iPad, Android, or Windows 8 tablet becomes a VoIP phone allowing you to make and place audio calls. With Skype, Zoom.us, or Google Hangouts, you can also use your tablet for video calls.



5 Conclusion

Technology is an integral part of the modern law practice. Those that refuse or that are reluctant to adopt it and make it a part of their practice will find themselves at a disadvantage in today's competitive legal marketplace. While you do not need to adopt every piece of technology available nor should you do so, you do need to have a plan to make technology an integral part of your practice.



6 Appendix A

The Illinois Rules of Professional Conduct (IRPC) is the first place that lawyers should look to when considering cloud computing. Unfortunately, as with other modern technologies, the Illinois Rules do not yet specifically address cloud computing. This means that until we have these only specific resources, we have to interpret the existing Rules pending any updates and changes and the issuance of Illinois specific Ethics Opinions. Until that time we can look to those states that have adopted changes to their rules or issued ethics opinions on use of cloud computing by lawyers and their staff.

As of August 2015, the ABA Law Practice Division Legal Technology Resource Center (check it out at <http://bit.ly/18pEDg9>) listed ethics opinions from 20 states that have addressed the issue of the use of cloud computing by lawyers with Wisconsin opinion EF-15-01 being the most recent. The full list of all 20 opinions along with a quick reference, summary of their findings and links to the full decisions are found at <http://bit.ly/QBU1dN>. The good news is that every one of these 20 opinions all provide that lawyers may use cloud computing in their practices and the standard of care that must be followed is to use “reasonable care” when selecting a cloud service provider. As with many issues regarding interpretation of the Rules of Professional Conduct throughout the United States, the devil lays in the details of each opinion. Specifically, differences exist in these 20 opinions regarding how each addresses the specific requirements as to what comprises “reasonable care” when determining whether a specific cloud computing service is acceptable for use by a lawyer or firm.

IRPC 1.1 requires a lawyer to provide competent representation. In August 2012, the ABA amended the Comment to Rule 1.1. To maintain competence, “a lawyer should keep abreast of changes in the law and its practice, *including the benefits and risks associated with relevant technology.*...” A lawyer must act competently to safeguard information protected by IRPC 1.6 from inadvertent or unauthorized disclosure. In addition, a lawyer must act competently to safeguard his or her unrestricted access to data that is stored on servers not owned by the lawyer.

6.1 ESTABLISHING A STANDARD OF REASONABLE CARE

1. The ABA Commission on Ethics 20/20 Working Group on the Implications of New Technologies identified potential confidentiality and access problems involved with cloud computing. These problems included:
 - a. storage in countries with less legal protection for data
 - b. unclear policies regarding data ownership
 - c. failure to adequately back up data
 - d. unclear policies for notice of data breach
 - e. insufficient encryption
 - f. unclear data destruction policies
 - g. bankruptcy of cloud providers
 - h. protocol for a change of cloud providers
 - i. disgruntled or dishonest insiders
 - j. technical failures
 - k. server crashes
 - l. viruses
 - m. data corruption
 - n. data destruction
 - o. business interruption (e.g., weather, accident, terrorism)
 - p. absolute loss (i.e., natural or man-made disasters that destroy everything)

These identified confidentiality and access problems should alert anyone contemplating the use of cloud services to select a suitable provider, take reasonable precautions to back up data and ensure its accessibility when the user needs it.

2. So what are some of the differences as to the factors which constitute “reasonable care” under these 20 recent ethics opinions? For example, Pennsylvania requires that a service provider provide “the firm with the right to audit the provider’s security procedures and to obtain copies

of any security audits performed.” Alabama requires that lawyers “reasonably ensure that the provider will abide by a confidentiality agreement in handling the data.” These requirements are unrealistic in light of the relative bargaining position of a lawyer and a company such as Google. Nerino Petro, Jr., *The Ethics of Cloud-based Services*, Wisconsin Lawyer, Vol. 85, No. 9, September 2012.

- 3.** Unlike the Alabama and Pennsylvania opinions, Massachusetts Bar Association Opinion 12-03 strikes a balance between a lawyer’s obligation under the Rules of Professional Conduct and the realities of the commercial market in determining what factors constitute reasonable care. The following recommendations are based on the Massachusetts’ opinion list of factors for determining reasonable care.
 - a.** Examine the provider’s terms of use and written policies and procedures with respect to data privacy and the handling of confidential information.
 - b.** Ensure that the provider’s terms of use and written policies and procedures prohibit unauthorized access to data stored on the provider’s system, including access by the provider itself for any purpose other than conveying or displaying the data to authorized users.
 - c.** Ensure that the provider’s terms of use and written policies and procedures, as well as its functional capabilities, give the lawyer reasonable access to, and control over, the data stored on the provider’s system in the event that the lawyer’s relationship with the provider is interrupted for any reason (e.g., if the storage provider ceases operations or shuts off the lawyer’s account, either temporarily or permanently).
 - d.** Examine the provider’s existing practices (including data encryption, password protection, and system backups) and available service history (including reports of known security breaches or ‘holes’) to reasonably ensure that data stored on the provider’s system actually will remain confidential, and will not be intentionally or inadvertently disclosed or lost.
 - e.** Periodically revisit and reexamine the provider’s policies and procedures to ensure that they remain compatible with the lawyer’s professional obligations to protect confidential client information reflected in Rule 1.6(a).

- 4.** Moreover, the factors listed in the Massachusetts’ opinion are consistent with the August 2012 amendments to the ABA Model Rules of Professional Conduct. A new paragraph was added to Rule 1.6 requiring a lawyer to “make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of the client.” Additional language was also added to create Comment [18] to clarify what factors should be considered to determine reasonableness. These factors include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer’s ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use).

Keep in mind that none of the ethics opinions require extraordinary efforts or a guarantee that information will not be inadvertently disclosed. They only require that lawyers use reasonable care in selecting a service provider.

- 5.** Currently, there is no definitive answer as to whether a lawyer must obtain a client’s consent to use a third-party provider for storage of client information. If you think of agreements that you sign for other professional services - such as dental and healthcare - you generally do not find any disclosure regarding cloud based services in them. This is true even though many healthcare providers routinely use cloud services. Many in the legal community take the position that lawyers are no different than those other professions and if they do not need to disclose, neither do lawyers. Another group believes that the IRPC (and all other versions of the Rules) impose unique obligations on lawyers and that it is prudent to obtain a client’s consent. Lawyers should at least, include in their engagement letters a statement that the lawyer uses such a provider, that the lawyer believes the information to be secure, and that invites the client to discuss any concerns with the lawyer.

6.2 REASONABLE CARE CHECKLIST

6.2.1 GENERAL PRECAUTIONS

- Have you installed a firewall to limit access to the firm's network?
- Do you limit information that is provided to others to what is required, needed, or requested?
- Do you have procedures in place to avoid inadvertent disclosure of information? (For example, do you have procedures in place to avoid the disclosure of confidential information contained in metadata?)
- Do you verify the identity of individuals to whom you or your employees provide confidential information?
- Do you refuse to disclose confidential information to unauthorized individuals (including family members and friends) without client permission?
- Do you encrypt electronic records (including backups) containing confidential data?
- Do you have electronic audit trail procedures to monitor who is accessing the data?
- Do you have procedures in place to address security breaches, including the identification of persons to be notified about any known or suspected security breach involving confidential data?
- Do you have procedures in place requiring that employees of the firm who use cloud computing receive training on and abide by all end-user security measures, including, but not limited to, the creation of strong passwords and the regular replacement of passwords?
- Do you have an alternate way to connect to the internet since cloud service is accessed through the internet?
- Do you protect the ability to represent the client reliably by storing a copy of digital data onsite?

6.2.2 PRECAUTIONS SPECIFIC TO CLOUD SERVICES PROVIDER

- Have you investigated the provider's security measures, policies and recovery methods?
- Have you investigated whether the provider has a third-party audit of security?
- Have you investigated the provider's system for backing up data?
- Have you investigated the provider's security of data centers and whether the storage is in multiple centers?
- Have you investigated the provider's safeguards against disasters, including different server locations?
- Have you investigated whether the provider has an uptime guarantee and whether failure results in service credits?
- Have you investigated the provider's history, including how long the provider has been in business, if it has a good operating record, and if it is recommended by other law firms?
- Have you investigated the provider's funding and stability?
- Have you investigated whether the data is in a non-proprietary format?
- Have you investigated the provider's policies for data retrieval upon termination of the relationship and any related charges?
- Have you investigated the provider's process to comply with data that is subject to a litigation hold?
- Have you investigated whether the provider's service agreement clearly states that the attorney owns the data?
- Have you investigated whether the provider's service agreement contains legal restrictions regarding its responsibility or liability, limitation on damages, or choice of law or forum?

6.2.2 PRECAUTIONS SPECIFIC TO CLOUD SERVICES PROVIDER continued

- Does the provider explicitly agree that it has no ownership interest in the data?
- Does the provider have an enforceable obligation to preserve security?
- Does the provider have an obligation to notify you if it is requested to produce data to a third party and an obligation to provide you with the ability to respond to the request before it produces the requested information?
- Does the provider have the technology built to withstand a reasonably foreseeable attempt to infiltrate data, including penetration testing?
- Does the provider include in its service agreement an agreement about how confidential client information will be handled?
- Does the provider give you the right to audit its security procedures and to obtain copies of any security audits performed?
- Does the provider host your data only within a specified geographic area? (Or if, by agreement, the data are hosted outside the United States, does the provider determine whether the hosting jurisdiction has privacy laws, data security laws, and protections against unlawful search and seizure that are as rigorous as those of the United States and the particular state?)
- Does the provider give you a method of retrieving data if you terminate use of its service, if it goes out of business, or if there is otherwise a break in continuity of service? Does the provider give you the ability to get data “off” its servers or a third-party data hosting company’s servers for your own use or in-house backup offline?

7 Appendix B Additional Resource Links

The following are additional resources to supplement those in the paper to which this list is attached. It is not an all-inclusive list of every resource or type of resource that is available for lawyers, but represent resources that are well known and used by lawyers and law firms throughout the United States.

OFFICE SUITES: DESKTOP	
MS Office	http://bit.ly/1KZKoq3
MS Office online	https://www.office.com
WordPerfect Office	http://www.wordperfect.com/us
iWork	https://www.apple.com/iwork-for-icloud
Kingsoft Office	http://www.kingsoftstore.com
LibreOffice	https://www.libreoffice.org
OpenOffice	http://www.openoffice.us.com
OFFICE SUITES: APPS	
iWork	
SmartOffice 2	http://smartoffice.artifex.com
DocUnlimited	http://apple.co/1NSgjGm
OfficeSuite Professional	http://bit.ly/1NSgxNN
Documents to Go	http://bit.ly/1NSgLVk
Office Mobile Android	http://bit.ly/1NSIOVD
Office for iPad	http://bit.ly/1NSIWEv
DOCUMENT MANAGEMENT: STAND ALONE	
Lucion FileCenter	http://www.lucion.com
Nuance PaperPort Pro	http://bit.ly/1KZFyZH
Worldox	http://www.worldox.com
NetDocuments	http://www.netdocuments.com
Metajure	http://metajure.com

DOCUMENT MANAGEMENT: INTEGRATED	
Time Matters	http://bit.ly/1KZGBch
PracticeMaster	http://bit.ly/1KZGDAW
ProLaw	http://www.elite.com/prolaw
PCLaw	http://bit.ly/SzZ3ew
Amicus Attorney	http://amicusattorney.com

PRACTICE MANAGEMENT: ON PREMISE	
Time Matters	http://bit.ly/1KZGBch
PCLaw	http://bit.ly/SzZ3ew
PracticeMaster	http://bit.ly/1KZGDAW
Amicus Attorney	http://amicusattorney.com
ProLaw	http://www.elite.com/prolaw
AbacusLaw	http://www.abacuslaw.com

PRACTICE MANAGEMENT: CLOUD BASED	
Clio	https://www.goclio.com
MyCase	http://www.mycase.com
RocketMatter	https://www.rocketmatter.com
ActionStep	http://actionstep.com/us
Cosmolex	https://www.cosmolex.com
Amicus Cloud	http://www.amicus-cloud.com/home
Lexis FirmManager	http://bit.ly/1KZH5Qn
GoMatters	https://www.gomatters.com
Advologix	http://www.advologix.com/web
Thompson Firm Central	http://tmsnrt.rs/1KZl5L5
SkyClient	https://skyclient.com

PRACTICE MANAGEMENT: HYBRID	
Credenza	http://www.credenzasoft.com
HoudiniESQ	http://houdiniesq.com

CLOUD STORAGE AND SYNCHRONIZATION SERVICES	
Dropbox	https://www.dropbox.com
Google Drive	https://www.google.com/drive
Box.com	https://www.box.com
OneDrive	https://onedrive.live.com/about/en-us
Sharefile	https://www.sharefile.com
SugarSync	https://www.sugarsync.com
SpiderOak	https://spideroak.com
iCloud	https://www.icloud.com
Tresorit	https://tresorit.com

Where to learn more:

7.1 ANDROID ONLINE RESOURCES

Google Android Market Online	https://market.android.com
Amazon Appstore for Android	http://amzn.to/lc2HVP
The Droid Lawyer	http://thedroidlawyer.com
Makeuseof.com	http://www.makeuseof.com/pages/download
AndroidTipGuys	http://androidtipguys.com
xdadevelopers	http://forum.xda-developers.com/filter.php?cat=Android
Android Authority	http://www.androidauthority.com
Android Forums	http://androidforums.com
Android Central	http://www.androidcentral.com/tips
Androinica	http://androinica.com
Androidgeeks	http://www.android.gs
Lifehacker	http://lifehacker.com/tag/android
How to Use Android	http://gizmodo.com/5909262/how-to-use-android

7.2 MAC ONLINE RESOURCES

The Maclawyer	http://www.themaclawyer.com
MacSparky	http://macsparky.com
Macs in Law	http://www.macsinlaw.com
Macs in Law Office (MILO Google Group)	http://bit.ly/12rd3Pz
Cult of Mac	http://www.cultofmac.com
MacRumors	http://www.macrumors.com
Appstorm	http://mac.appstorm.net
MacAttorney	http://www.macattorney.com
MacLitigator	http://www.maclitigator.com
The Hytech Lawyer	http://hytechlawyer.com

7.3 IPHONE AND IPAD ONLINE RESOURCES

makeuseof.com	http://www.makeuseof.com/pages/download
iPad 4 Lawyers	http://ipad4lawyers.squarespace.com
TabletLegal	http://tabletlegal.com
Macs in Law	http://www.macsinlaw.com
iPhone J.D.	http://www.iphonejd.com
iPad Notebook	http://ipadnotebook.wordpress.com
The MacLawyer	http://www.themaclawyer.com
Nerdy Professionals	http://nerdyprofessionals.com
WalkingOffice	http://www.walkingoffice.com
EverythingiCafe	http://www.everythingicafe.com
The Hytech Lawyer	http://hytechlawyer.com
iPad Help	http://ipadhelp.com
iMore	http://www.imore.com
App Advice	http://appadvice.com/appnn
Macworld	http://www.macworld.com
The Verge	http://www.theverge.com/apple
iPad in Business	http://www.apple.com/ipad/business
The Unofficial Apple Weblog (TUAW)	http://www.tuaw.com/category/ipad
MacDesign Online	http://www.macdesignonline.com



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