

Solo By Choice in the Current Economy

Handouts and PowerPoints

November 20, 2009

4.75 General or Practical Skills and
.5 Ethics

Sponsored by the OSB Sole and Small Firm Practitioners Section, OSB Law Practice
Management Section, and OSB Professional Liability Fund

Solo By Choice

How to Manage Files, Deadlines, and Conflicts



Beverly Michaelis, J.D.
Practice Management Advisor

MCLE FORM 1: Recordkeeping Form (Do Not Return This Form to the Bar)

Instructions:

Pursuant to MCLE Rule 7.2, every active member shall maintain records of participation in **accredited** CLE activities. You may wish to use this form to record your CLE activities, attaching it to a copy of the program brochure or other information regarding the CLE activity.

Do not return this form to the Oregon State Bar. This is to be retained in your own MCLE file.

| | | | |
|---|---|--|--|
| Name: | | Bar Number: | |
| Sponsor of CLE Activity: OSB Professional Liability Fund | | | |
| Title of CLE Activity: Solo by Choice in the New Economy | | | |
| Date: 11/20/09 | | Location: OSB Bar Center, Tigard Oregon | |
| <input checked="" type="checkbox"/> <i>Activity has been accredited by the Oregon State Bar for the following credit:</i> 4.75 General or PPS .5 Prof Resp-Ethics ___ Access to Justice ___ Child Abuse Rep. ___ Practical Skills | <input type="checkbox"/> Full Credit. <i>I attended the entire program and the total of authorized credits are:</i> ___ General ___ Prof Resp-Ethics ___ Access to Justice ___ Child Abuse Rep. ___ Practical Skills | <input type="checkbox"/> Partial Credit. <i>I attended _____ hours of the program and am entitled to the following credits*:</i> ___ General ___ Prof Resp-Ethics ___ Access to Justice ___ Child Abuse Rep. ___ Practical Skills | |

***Credit Calculation:**

One (1) MCLE credit may be claimed for each sixty (60) minutes of actual participation. Do not include registration, introductions, business meetings and programs less than 30 minutes. MCLE credits may not be claimed for any activity that has not been accredited by the MCLE Administrator. If the program has not been accredited by the MCLE Administrator, you must submit a Group CLE Activity Accreditation application (See MCLE Form 2.)

Caveat:

If the actual program length is less than the credit hours approved, Bar members are responsible for making the appropriate adjustments in their compliance reports. Adjustments must also be made for late arrival, early departure or other periods of absence or non-participation.

SOLO BY CHOICE

How to Manage Files, Deadlines, and Conflicts

TABLE OF CONTENTS

| | Page # |
|--|---------------|
| HOW TO MANAGE FILES | |
| New Client Information Sheet with Disclaimer | 1 |
| <u>Paper Filing Systems</u> | |
| Setting Up an Effective Filing System | 2 |
| Frequently Asked Questions About Filing | 5 |
| Mail Handling for Paper Filing Systems | 7 |
| <u>Digital Filing Systems</u> | |
| Is It Time To Go Paperless? | 8 |
| Mail Handling for Paperless Filing Systems..... | 12 |
| Managing Client E-Mail | 14 |
| Checklist for Imaging Client Files and Disposing of Originals..... | 18 |
| <u>File Closing</u> | |
| File Closing Checklist | 23 |
| File Retention..... | 25 |
| HOW TO MANAGE DEADLINES | |
| Docket Control Checklist | 28 |
| Diary/Tickler Systems | 29 |
| Beware of These Traps in E-Filing and E-Notices..... | 31 |
| HOW TO MANAGE CONFLICTS | |
| Conflict of Interest Systems – Procedures | 33 |
| RESOURCES | 39 |
| POWERPOINT SLIDES | 48 |

NEW CLIENT INFORMATION SHEET

The purpose of an initial consultation is to assess whether my legal services can be of use to you and, if so, to discuss the fees for my services. It may not be possible to make that determination given the time allotted for our meeting or with the information that you can provide. Following our consultation, you may decide not to retain me or I may decline to represent you. For me to act as your attorney, you and I must agree in writing to the terms of my representation.

| | | |
|---|-----------------------------------|---------------------------|
| TODAY'S DATE _____ | | |
| Client's Full Name _____ | SS# _____ | |
| Spouse's/Partner's Full Name _____ | SS# _____ | |
| Street Address _____ | | |
| City/State _____ | Zip _____ | E-mail Address _____ |
| Telephone (Home) _____ | Client Work _____ | Spouse/Partner Work _____ |
| Client's Employer _____ | Spouse's/Partner's Employer _____ | |
| Emergency Contacts: | | |
| Name _____ | Relationship _____ | Telephone _____ |
| Name _____ | Relationship _____ | Telephone _____ |
| Why You Chose Our Office _____ | | |
| Conference With Attorney Regarding: _____ | | |

FOR OFFICE USE ONLY

| |
|----------------------------|
| Fee arrangement: _____ |
| Billing arrangement: _____ |

| DOCKET CONTROL | |
|---------------------------------|--|
| Statute of Limitations Deadline | |
| Tort Claims Act Notice Due | |
| First Appearance Due | |
| Other Deadlines | |
| File Review Frequency | |
| INSTRUCTIONS: | |
| | |

| CONFLICT CONTROL | |
|------------------|--------------|
| NAME | RELATIONSHIP |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

File opened by _____ Conflicts checked by _____ Deadlines docketed by _____
 Engagement letter sent by _____ Date: _____

Setting Up an Effective Filing System

By Beverly Michaelis

Organizing and maintaining a filing system that meets your firm's needs can be a frustrating endeavor. What works well in one practice area may not translate to another. This article examines the most common approaches to organizing file material and provides tips that can be applied in virtually every office.

Filing Systems: Alpha vs. Numeric

If you find the subject of file management baffling, you are not alone. If you are a newer lawyer, your exposure to office systems may be limited, depending on previous work experience. If you are a seasoned lawyer who has left a firm to set up a solo practice or partnership, you may feel compelled to mimic your old firm's file structure. Before doing so, carefully consider which system is best for you and your type of clientele: numbering client files or organizing them alphabetically.

For the typical small law office, the alphabet can't be beat. It is the most straightforward and efficient approach to organizing client files. When "John Jones" calls to ask a question about his case, the Jones file is easily located without the need to refer to a list or index that cross-references file numbers to client names. This approach works well for lawyers who tend to have clients with one-time matters.¹ If, however, you work in a multi-attorney office, or have single clients with many matters, a numeric or combination alpha-numeric system will serve you well. When "John Jones" calls about the lease agreement you are drafting, a numeric or alpha-numeric system will help you distinguish his real property file from the corporate, litigation, and tax matters also attributable to "Jones."

In numeric or numeric combination filing systems, file numbers can be assigned in sequential order, with or without a year designation. For example, the Jones corporate file could be No. 100 (a sequential number without a year) or 07-100 if it was file number 100 opened in 2007. Alternatively, you could assign each client a permanent number with sequential numbers for each matter file opened on the client's behalf. If John Jones' permanent client number was 1000, his matter files would be 1000-01 (real property), 1000-02 (corporate), 1000-03 (litigation) and 1000-04 (tax).

If you elect to number your files, remember these two tips. First, use the least number of digits possible. The longer your number sequences, the greater the likelihood of filing errors. Second, keep a master client/matter list on your computer to minimize duplicate file numbers and other mistakes. Although such lists can be set up in word processing programs such as Word or WordPerfect, a database or case management program is preferable.

File Media: Folders vs. Binders

Now that you have decided upon a filing system, how should the file material itself be stored? File folders? Notebook binders? If you use file folders, should they be letter-size or legal? Different practices lend themselves to different methods of organization, but file folders are generally the better choice for most practitioners. Cost is the primary reason—folders are usually cheaper and easily fit into existing desk drawers, cabinets, and bookcases. In addition, filing into folders is usually faster and less of a struggle. Binders work best for trial notebooks or other special document organization projects. (If you use binders, recycle the

notebooks when files are closed and put binder contents into a folder for easier storage.)

What about size? In the battle of letter vs. legal, economy wins out again. Letter-size files are less expensive and make the best use of space in the majority of filing cabinet systems. With the scaling down of documents from 14 inches to 11 inches in length, legal-size folders are no longer necessary.

Color Coding

Color-coding of files can be a very effective way to improve the efficiency of your filing system. By associating a color with a given category of main file or subfile, you can easily locate the information you are looking for. For example, a general practice might use color-coding for main files: red for domestic relations, green for real property, yellow for personal injury, blue for wills and estates. When Ms. Smith calls about her divorce, it is easy to pick out the red file sitting on the associate's credenza. Color association is an advantage at filing time for the same reason. If documents need to be filed in the Taylor real property and personal injury cases, the appropriate green and yellow files can easily be distinguished.

If you prefer, you can use plain folders for your main file and color-code your subfiles: blue for legal research, yellow for pleadings, red for discovery, and so forth. Use the method that works best for you and your cases.

Files and Client Relations

When you are setting up a file for yourself, don't forget about the client. Giving the client his or her own file folder in which to place the signed fee agreement and other correspondence and materials he or she will be receiving from you

promotes positive client relations. The folder should include one of your business cards so the client always has your address, phone, fax, e-mail, etc. readily available. Providing clients with a folder helps to keep them organized and lessens the chance that documents will be lost or misplaced. Instruct the client to bring his or her file to each of your meetings, and if appropriate, use the file to record notes or questions for future appointments.

Sample Practice Area File Structures

Does your office have a standard subfile structure for each practice area? Creating such a framework ensures consistency—files are set up the same way each time—and makes filing and retrieval of documents more efficient. Start by looking for common patterns in existing files. Do you find yourself setting up subfolders for Correspondence, Pleadings, and Legal Research in each of your client files? This could be the beginning of *your firm's* subfile framework. To implement a framework for your filing system, create an index. To ensure that folders are always organized in the proper order for each file, assign numbers to each of your subfiles or file sections. Here are sample structures for three types of files: corporate, personal injury, and domestic relations.

Corporate

Subfile

Number Name of Subfile

- 1 Correspondence and General—this year
- 2 Correspondence and General—last year
- 3 Board of Directors Minutes
- 4 Directors Meetings, General
- 5 Articles and By-laws (current)
- 6 Corporate Documents/Incorporations
- 7 Shareholder Minutes
- 8 Shareholder Meetings, general (this year)

- 9 Annual Reports
- 10 Officers
- 11 Securities Issued
- 12 Securities to be Issued
- 13 Audits/Financial Statements
- 14a Taxes—Federal
- 14b Taxes—State
- 14c Taxes—Local
- 14d Taxes—Foreign
- 15a Regulatory Agencies—Federal
- 15b Regulatory Agencies—State
- 15c Regulatory Agencies—Local
- 15d Regulatory Agencies—Foreign
- 16a Real Property Owned
- 16b Real Property Leased
- 17a Acquisitions and Mergers—completed
- 17b Acquisitions and Mergers—future
- 18a Equipment Contracts—company
- 18b Employment Contracts—company
- 18c Other Contracts—to company
- 18d Contracts from Company
- 19 Trade Association
- 20 Pension and Profit Sharing—current
- 21 Personnel Forms
- 22 Labor Agreements—current
- 23 Labor casesⁱⁱ

Personal Injury

Subfile

Number Name of Subfile

Investigation

- 1 Witnesses/Investigative Reports
- 2 Police Reports/Police Photos
- 3 Defendants (Corporate)
- 4 Technical Research
- 5 Medical Research
- 6 Experts/Consultants
- 7 Demonstrative Evidence (Photos, sketches, repair estimates, maps, audio or videotapes, etc.)

Damages

- 8 Plaintiff's Treating Physicians
- 9 Client's Diary/Notes from

- Client
- 10 Other Injury Claims (Workers comp, prior injury claims or suits)
- 11 Economic Damages (Medical bills, funeral expenses)
- 12 Lost Wages/Tax Returns/Personnel Records

Damages—Miscellaneous

- 13a Plaintiff's Insurance (UIM/PIP/Health)
- 13b Liens (Health, PIP, Hospital, Physician, Comp, AFS, Medicare)
- 13c Authorizations
- 13d Settlement/Mediation
- 13e Litigation Expenses

Pleadings

- 14a Pleadings (Trial notices and all pleadings, including discovery)
- 14b Legal Research
- 15 Produced to Plaintiff (All documents produced to plaintiff and defendant's response to plaintiff's request(s) for production; copies of relevant documents should be cross-filed in appropriate places, e.g., medical records to subfile 8, personnel records to subfile 12.)
- 16a Defendant's Discovery (separate defendants) (Includes defendant's requests and plaintiff's responses. Correspondence that constitutes a request or reply to discovery should be copied and cross-filed to the appropriate discovery subfile; original correspondence should be placed in the main client file.)
- 16b Produced to Defendant (Make a working copy of defendant's request, bind all documents produced in response, file here.)

| | |
|--------------|--|
| <u>Trial</u> | |
| 17 | Pretrial (Motions in Limine, witness list, trial schedule) |
| 18 | Trial Memo and Evidentiary Memos |
| 19 | Voir Dire |
| 20 | Exhibits |
| 21 | Opening Statement |
| 22 | Lay Witnesses/Liability and Damage |
| 23 | Plaintiff's Expert Witnesses |
| 24 | Offers of Proof |
| 25 | Defendant's Case-in-Chief |
| 26 | Motions for Directed Verdict |
| 27 | Closing |
| 28 | Rebuttal |
| 29 | Jury Instructions and Verdict ⁱⁱⁱ |

Domestic Relations

This sample system uses a combination of file folders, three-ring binders and expandable file pockets. The file folders are made of durable pressboard and come with two interior dividers, providing a total of 6 filing tabs within the folder to file documents.^{iv}

File Folder Contents

File Folder

| | |
|------------|--|
| <i>Tab</i> | <i>Contents</i> |
| 1 | Pleading Index ^v Tabs Pleadings |
| 2 | Correspondence (Including fax transmittals and confirmations) |
| 3 | Reports (Custody reports, reports from physicians, etc.) |
| 4 | Depositions ^{vi} |
| 5 | Client's Notes (Any material received from the client) |
| 6 | Attorney's Notes (Notes generated by firm attorneys or staff) |

Color-coded three-ring notebooks are used to manage discovery and trial exhibits. Discovery documents are filed in two binders, one for the petitioner, and one for the respondent. A discovery index in each binder tracks documents

received, documents produced, and the date of production.^{vii} Expanded file pockets are used for bulky items.

Trial exhibits are organized in similar fashion. An exhibit index tracks the items offered and admitted into evidence.^{viii}

To successfully implement a framework for your subfiles, create a master subfile index. To ensure that folders are always organized in the proper order for each file, assign subfile numbers to each of your subfile names, as in the above examples.

Pulling the Whole Package Together

In addition to the above, effective file management also involves establishing and following file opening and file closing procedures and using tools such as client intake forms, fee agreements, engagement, nonengagement and disengagement letters, and a file closing checklist. Many sample forms, letters, and checklists are available at no charge from the Professional Liability Fund, www.osbplf.org. We also encourage practitioners from all firms—small or large—who have office system questions to contact our practice management team. Office and phone consultations are free and confidential. For more information about the PLF's practice management program, contact the PLF at 503-639-6911 or 800-452-1639.

The author is a lawyer and practice management advisor with the Professional Liability Fund.

ⁱ The Association for Information Management Professionals (ARMA International) is a tremendous resource for those interested in the latest in record management information and technology. 4200 Somerset Drive, Suite 215, Prairie Village, Kansas 66208. (913) 341-0339. Publications available to non-members include: *Alphabetic Filing Rules, Filing Procedures—A Guideline, and Numeric Filing—A Guideline*. From the home page, www.arma.org, click on Publications and follow the links to ARMA

Bookstore, Non-Members Store, then to Filing Basics.

ⁱⁱ *How to Manage Your Law Office*, Altman Weil, § 10.03, pp. 10-26, 10-27 (Matthew Bender & Co., Inc. Rel. 22-7/95 Pub. 356.)

ⁱⁱⁱ Personal injury subfile structure adapted courtesy of Linda J. Rudnick, Esq., Beaverton, Oregon.

^{iv} Domestic relations file structure supplied courtesy of Beth Mason & Associates, Beaverton, Oregon, with special thanks to James Jensen. The pressboard file folders described in the article are available from Oxford (Oxford Classfolders, number 1257) or Smead (Smead UPC 14075-C402-5A-2D).

^v The pleading index is a word processing document with four columns: Number (the chronological number assigned to each pleading document as it is received); Party (the name of the party who generated the pleading); Pleading (title of the pleading); and Date. All pleadings are assigned a number, filed behind an 8.5 x 11 divider sheet with the appropriate numbered tab, and added to the index. The tab sets are from Kleer-Fax and come in sets of 25. (Kleer-Fax #8000 series, stock number 81170.) The index is best set up in a table.

^{vi} Deposition transcripts are stored in a manila envelope which is hole punched to fit in the file. This portion of the file may also contain Requests for Production.

^{vii} All discovery documents are tabbed, assigned a number, filed by number, and added to the index. Because binders are used to organize discovery, the Kleer-Fax tab sets are three-hole punched.

^{viii} The exhibit index is a word processing document with five columns: Petitioner, Respondent, Description, Offered, Admitted. This allows the attorney to track each exhibit as it is offered and to note whether it is admitted. The Petitioner and Respondent columns are used to note the exhibit numbers (1-100 for the petitioner, 101 and up for the respondent.) As with the pleading index, the exhibit index is best set up as a table.

This article originally appeared in the OSB Bulletin June 2000; updated April 2007.

REPRINTED WITH PERMISSION



DECEMBER 2002

FREQUENTLY ASKED QUESTIONS ABOUT FILING

Is your office plagued by filing backlogs? If so, check out these practical solutions to the problems firms say they encounter most frequently. As you read our tips, keep in mind that teamwork is essential. Systems and procedures work best when everyone is on the same page.

Q: I have difficulty finding the time to do my filing. Are there any tips or tricks that can help me?

A: Placing mail in a stack on an attorney's desk is the surest way for an item to be lost, misfiled, misplaced, or forgotten until a critical deadline has passed. One trick that can help is to attach each piece of mail to the relevant file *before* presenting it to the attorney. When the same mail is returned for filing, it is less likely to sit on the secretary's desk for indefinite periods of time. And, when someone calls, the latest correspondence and documents are guaranteed to be in – or attached to – the file.

Q: What can we do if mail gets lost or misplaced?

A: If original documents are being misplaced on a regular basis, make work copies of the mail on brightly colored paper and present them to the attorney, paralegal, or other staff person. That person can mark the work copy with instructions or dictation notes while the original mail is being placed directly in the file.

Q: What should I do when the attorneys want to keep files in their offices rather than in a central location? This makes it difficult for me to keep up with filing, transcription, and other work.

A: Sometimes attorneys keep files in their offices as a reminder of work to be done. If this is the case, it is better to establish a centralized location for files and a companion tickler system to remind attorneys. Keeping files in a central location offers better file control and gives everyone access to files when filing and other tasks need to be done.

Q: What can we do about our big backlog of filing?

A: If you have allowed filing to back up, block out time on your calendar – an entire day, or one or two hours a day over several days – to take care of the accumulated documents. Start by sorting the backlog, first by matter, then chronologically. If you cannot immediately begin filing, it may be beneficial to use inexpensive manila file folders to temporarily house the documents. Jot down the matter name on the manila folder for quick identification later. To prevent a backlog from reoccurring, tackle filing daily – or at a minimum, block out a set amount of filing time each week (Fridays from 3:00 to 5:00, for example).

Q: What do I do if the file I need is missing?

A: Use a large manila envelope or inexpensive folder to hold the mail. Keep the

envelope or folder in the location where the file would normally be. This way, at least the most recent correspondence or documents will be accessible, and when the file is found it will be easy to catch up on the filing.

Q: In our office there is often a delay before new files are opened. What should we do with mail or other documents when we have no file for them?

A: Opening new files should be given top priority, for without a physical file, documents can be lost and deadlines missed. The physical opening of a file is usually the trigger to get a new matter into all appropriate office systems (calendar, tickler, etc.). If you encounter a piece of mail for which you have no file, check to see if it is a new matter. If it is, expedite the opening of the file. If for some reason this isn't possible, follow the procedure for a missing file with one twist – use a brightly colored folder or envelope. (Choose one color to represent mail that needs to be matched to an unopened new file.) Later when the file is opened, the brightly colored temporary folder or envelope will stand out as a prompt to help you bring the filing up to date.

Q: What happens if we follow your suggestions and then find that the temporary folders or envelopes outnumber the actual files?

A: To prevent too many temporary folders from accumulating, assign a person to review the status of your active, open files on a weekly basis. This person can follow up with attorneys and staff about missing files or new files that need to be opened. If support staff are aware of new-matter files that need to be opened, they can help by taking the initiative to follow up with their attorney(s) to obtain the information needed to open the file. To streamline the process, establish a file-opening checklist, new-case memo form, or intake sheet.

Q: We have difficulty finding the time to close files. What can we do?

A: If you don't already have a file-closing checklist, develop one. (The PLF has a sample form that can be customized to fit your needs.) Using a checklist will streamline file closing and ensure consistency. If other work is frequently so pressing that

unclosed files create a major backlog, set aside a specific time each month to work on them.

Q: These are all good ideas, but they just don't seem to work. Is there anything else we can try?

A: In many cases, the real issue is not lack of systems or procedures, but lack of commitment. Unless everyone in the office is on the same page, the filing problems described above will persist. Ask yourself these questions:

- Does everyone in the office understand the intake, closing, and filing procedures?
- Is there an expectation that these procedures will be followed?
- Is each member of the office aware of his or her role in the process?
- Does each member of the office understand how his or her responsibilities in this area affect others?
- Are members of the office willing to change their work habits in order to make these tasks flow more smoothly?
- Are members of the office willing to set timelines for these tasks and require those responsible to meet the timelines?
- Do staff have the flexibility to block out uninterrupted time on a weekly/monthly basis to tackle any backlog?
- Are staff encouraged to take a proactive role in following up with the attorneys to keep the work flow moving?

Beverly Michaelis
Practice Management Advisor
Professional Liability Fund

REPRINTED WITH PERMISSION

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

MAIL HANDLING PAPER FILING SYSTEM

One person should be responsible for opening all incoming mail, sorting it, and date stamping it. If this person is also in charge of a central calendar or the docket system, this person should review the mail and pick out any dates or time limits set forth. These dates should be entered immediately into the system(s) and an appropriate notation made on the piece of mail. This can be accomplished by highlighting the docket date or placing a red checkmark next to it and initialing it. If this person is not in charge of the calendar or docket system, a docket slip should be completed for each date or time limit and given to the person in charge of the central calendar or docket.

Unless the person opening the mail is the only secretary in the office, the mail should be distributed to the secretary for each attorney. Each secretary should review the mail for his or her assigned attorney. Dates and items of importance should be noted by the secretary.

The mail should then be attached to the applicable file and placed on the attorney's desk for review. If an item requires immediate attention, it can be handled right away. If there is nothing that needs to be done immediately, the file can be diaried to a future date. If possible, secretaries should meet with their attorney(s) at a specific time each day to review incoming mail and tickled files. This daily meeting is an excellent time for questions to be answered, schedules coordinated, and items delegated to the secretary for completion.

Mail should never be stacked in a pile on the attorney's desk without being attached to the file. This is the surest way for an item to be lost, misfiled, misplaced, or shuffled to the bottom of the stack and forgotten about until a deadline has passed. If loose items of mail are given to the secretary for filing, they may sit on the secretary's desk for indefinite periods of time until the secretary finds time to do the filing. This is always the task that is put off because no one is particularly fond of filing. When the filing is not kept up on a daily basis, the attorney may give the wrong information to someone calling because when looking into the file the most recent correspondence or documents are not there.

Keep in mind that the mail handling procedures described above apply to **all** incoming documents and transmissions, including faxes, e-mails (unless saved electronically), hand-deliveries and items received by messenger.

Is It Time to Go Paper-Less?

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

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

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

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

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

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

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

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

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

Staff

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

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

Technology

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

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

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

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

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

Policies and Protocols

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

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

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

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

you can continue to use and manipulate.

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

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

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

Clients

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

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

Security

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

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

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

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

Back up, back up, back up!

Beyond Client Files

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

Is It Paperless or Paper-Less?

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

BEVERLY MICHAELIS
PLF PRACTICE MANAGEMENT ADVISOR

REPRINTED WITH PERMISSION

DISCLAIMER

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

Additional Resources

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

Practice Aids

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

***In Brief* Articles**

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

MAIL HANDLING PAPERLESS FILING SYSTEM

In a paperless filing system, each client or matter has a distinct electronic file where mail is kept with other client/matter information. Paper records may be minimal or non-existent. Mail is scanned with other paper, then distributed and saved in Portable Document Format (PDF). Optical Character Reader (OCR) software is used to render the scanned PDFs searchable. [For more information about scanning and use of OCR software, see the PLF practice aid, *Checklist for Imaging Client Files and Disposing of Original Documents*, in the **Resources** section below.]

Establish a protocol for the proper disposition of paper after scanning. As a general rule, keep original documents whose authenticity may be disputed, or those with particular legal importance (original signed contracts, original executed wills, etc.) Paper not meeting these criteria (or other criteria identified by the firm) can be shredded or forwarded to the client after scanning. [See *Checklist for Imaging Client Files and Disposing of Original Documents* in the **Resources** section below for more information.]

One person should be responsible for opening all incoming mail, sorting it, and date stamping it. In a paperless filing system, date stamping can also be accomplished after the mail is scanned by applying a date and time stamp in Adobe Acrobat. Click on Tools, Comment & Markup, and select Stamps. Under “Dynamic” choose the “Received” stamp or follow the steps to create a custom date and time stamp.

If the person opening the mail is also in charge of a central calendar or the docket system, this person should review the mail and pick out any dates or time limits set forth. These dates should be entered immediately into the system(s) and an appropriate notation made on the piece of mail. This can be accomplished before or after scanning. To make the notation beforehand, place a checkmark next to the docket date, initial it, and then scan the document. To make the notation afterward, use Adobe Acrobat to create a custom “Docketed” stamp to apply to the mail after it is scanned in as a PDF.

If the person opening the mail is not in charge of the calendar or docket system, a docketing request should be completed for each date or time limit and e-mailed to the person in charge of the central calendar or docket.

At this stage, scanned mail can be forwarded electronically to the assigned attorney and his or her secretary. The secretary should review the mail and note dates and items of importance. If possible, the secretary should also meet with their attorney(s) to review incoming mail and tickled files each day. This meeting is an excellent time for questions to be answered, schedules coordinated, and items delegated to the secretary for completion. Document or case management software can greatly facilitate this process. These programs store scanned, unread mail directly in the client/matter electronic file, not the attorney’s e-mail inbox. Once in the program, unread mail can be protected from deletion, backed up with the remainder of the client/matter file, and easily flagged for follow-up, forwarded to another person, or sorted by any number of criteria (date received, client, matter, description, or status: reviewed, not reviewed, or on hold).

Keep in mind that the mail handling procedures described above apply to **all** incoming documents and transmissions, including faxes, hand-deliveries, and items received by messenger. E-mail messages may be scanned, following the procedures described above, or saved directly in

electronic form. For more information on electronic retention of e-mail, see the PLF practice aid, *Managing Client E-mail*, in the **Resources** section below.

Resources available on the PLF Web Site, www.osbplf.org

| ARTICLES | PLF WEB SITE LINK |
|--|--|
| <i>Document Destruction</i> | <i>In Brief</i> , June 2005 issue |
| <i>Our Paperless World</i> | Practice Aids and Forms , then Technology |
| <i>Retention of Electronic Records</i> | Practice Aids and Forms , then Technology |
| <i>Technology Tips: Using Acrobat 9 in the Law Office</i> | <i>In Brief</i> , August 2008 issue |
| <i>The Paperless Office</i> | <i>In Brief</i> , February 2009 issue |
| PRACTICE AIDS | PLF WEB SITE LINK |
| Checklist for Imaging Client Files and Disposing of Original Documents | Practice Aids and Forms , then Technology |
| Digital Signatures | Practice Aids and Forms , then Technology |
| File Retention | Practice Aids and Forms , then File Management |
| How to Back Up Your Computer (and Application Service Providers) | Practice Aids and Forms , then Technology |
| Managing Client E-Mail | Practice Aids and Forms , then Technology |

MANAGING CLIENT E-MAIL

Are you struggling with how to manage client e-mail? Would you like a hassle-free way to select, print, or save messages relating to particular clients or matters? Here are four simple approaches to keep your e-mail inbox lean and mean:

- The built-in capabilities of Outlook 2007;
- Outlook Add-ins: electronic filing assistants/organizer;
- Adobe Acrobat; and
- Case or document management software.

These approaches will help to ensure that you are incorporating client e-mail into the appropriate digital or paper file for your client.

If you are using Google, Yahoo!, Hotmail, Mozilla Thunderbird, Microsoft Windows Live Mail, or Outlook Express, see “You’ve Got Mail! – *And Lots of it*,” from the American Bar Association, available at <http://www.abanet.org/media/youraba/200807/article12.html>.

BUILT-IN CAPABILITIES OF OUTLOOK 2007

Organizing E-mail Using Folders

Client e-mails in Outlook 2007 (Outlook) can easily be saved to a text file that can be viewed (and searched) in Word or WordPerfect. First, create a folder on your computer for each client. If a client has multiple case matters, use subfolders. Each matter may have a subfolder for correspondence, pleadings, and other documents, as needed. Then set up e-mail folders and subfolders for each of your clients and client matters in your Outlook inbox that mirror the folders and subfolders in the client’s computer files. Drag the messages from the inbox into the appropriate client e-mail folder.

Saving Multiple E-Mail Messages as Text Files

To save client e-mails en masse using Outlook, navigate to the e-mail folder containing the messages you want to save, choose “Select All,” or select the individual messages you want to place in a text file. With the messages highlighted, choose “File, Save As,” and navigate to the folder on your computer where you want to save the messages. Give the file a name, such as “Jones e-mail messages.” “Jones e-mail messages” will be saved as a text file that can be opened in Notepad, WordPad, Word, or WordPerfect. If you save multiple messages in one batch, they will automatically be consolidated into one text document. The document can be searched, if necessary; stored with client Jones’ other electronic documents; and printed for the client’s paper file, if desired. The original e-mail messages can then be deleted from Outlook, freeing up valuable space.

Capturing Attachments

If you want to save the attachments or graphics along with the original e-mail, when you select the “File, Save As” option, change the message type at the bottom of the dialog box from the default (which may be plain text, HTML, or rich text) to Outlook Message Format (.msg). Note that messages saved in the .msg format will have an envelope icon and are opened using Outlook.

Using Earlier Versions of Outlook

The techniques described above should work in earlier versions of Outlook. If the “File, Save As” option is not available, select the messages you want to save, right click, choose “Print,” and check the “Print to File” checkbox before clicking OK. Because you are “printing” to a file (a text file on your computer) and not physically printing the messages, this is equivalent to the “Save As” approach.

Best Practices

You can save e-mails one at a time – as you receive them – or all at once at the end of a client matter. Depending on the duration of the matter, save e-mails frequently enough to protect your client’s information from loss.

OUTLOOK ADD-INS: ELECTRONIC FILING ASSISTANTS AND ORGANIZER

Electronic Filing Assistants

The following electronic filing assistants can greatly speed-up the process of filing your e-mail. All three offer free product evaluations. Visit the company Web sites for more information:

QuickFile4Outlook

QuickFile 4Outlook – Lawyers Edition is an add-in to Outlook that doesn’t require users to learn a separate software program. After installing it, two new buttons appear on your Outlook toolbar. You can easily create a filing system for your e-mail that corresponds to the client’s paper file and that moves e-mail out of your inbox and sent items to the correct client/case folder. If you prefer to print e-mail and save hard copies to the client file, QuickFile can speed up the sorting, printing, and filing process. (Folder names and other key information, such as case number and description, can be printed on each e-mail message to ensure more accurate filing.) Electronic archives can be created in Word or HTML by case or client, with e-mail attachments stored in a separate folder and accessible from the archived document. <http://www.outlook4lawyers.com>.

SimplyFile

As the name implies, SimplyFile simplifies the process of filing e-mails in Outlook folders. The program applies an advanced algorithm to learn and adapt to the user’s e-mail filing habits. After you “train” SimplyFile for a time, filing e-mail to the right folder takes only one click. Whether you want to file a newly sent e-mail or a reply to an existing message, the program will “guess” which Outlook folder the message belongs in. (The accuracy rate is purported to be 80-90%.) There are no configuration wizards, no set-up, and no rules to maintain. www.techhit.com/SimplyFile/

SpeedFiler

If you send and receive lots of e-mail, like to keep it filed, and have many folders in a hierarchical structure, SpeedFiler promises to save you time.

There are two versions of SpeedFiler – Personal and Professional. Both versions offer accelerated filing of incoming and outgoing messages, prompts for a folder when sending a message, and improved navigation to Outlook folders. The Professional version includes one-click filing, intelligent folder suggestions (comparable to SimplyFile), ability to file the original message automatically when replying (comparable to SimplyFile), support for Microsoft Exchange, ability to redefine the Sent items folder, and background folder scanning to avoid start-up delays. <http://www.claritude.com/>.

Electronic Inbox Organizer

If you find your Outlook Inbox difficult to work with, you may benefit from using an Inbox organizer like Xobni, voted a “must-have” by www.pcworld.com:

Xobni

Xobni completely reorganizes the look, feel, and function of your Outlook Inbox. E-mail exchanges between you and a contact are displayed as a list of e-mail conversations, threaded together by subject, and shown in the order in which they occurred. Clicking on a conversation reveals all the e-mails contained within the thread. You can instantly see who said what and when. In addition, all the

files exchanged between participants to a conversation are listed for your convenience.

If you are a Facebook or LinkedIn user, Xobni integrates seamlessly with those products to pull in profile data. It boasts “lightning fast” search capabilities for finding e-mail, attachments, contacts, and companies as well as “e-mail analytics” which help you identify the best time of day to e-mail an important client or contact. Xobni is Open Source and completely free. Visit <http://www.xobni.com/> for more information.

ADOBE ACROBAT 9

If your office already owns Adobe Acrobat 9 (Acrobat), you may want to take advantage of this program’s powerful e-mail archiving capabilities. When Acrobat is installed, two new buttons appear on the Outlook (or Lotus Notes) toolbar: “Create Adobe PDF from selected messages” and “Create Adobe PDF from folders.” These buttons are used to capture messages and attachments together, converting your e-mail into a single PDF with a fully searchable/sortable index. Messages can be archived individually, one folder at a time, or you can set archiving to occur automatically.

To convert selected messages from Outlook to PDF, follow these steps:

1. In Outlook, select the inbox folder with the e-mail message you want to save.
2. Click the button “Create Adobe PDF from selected messages.”
3. In the “Save Adobe PDF File As” box, specify a folder on your computer (e.g., client/matter) in which to save the PDF file, type a file name, and click “Save.”

To convert a folder of e-mail messages from Outlook to a PDF, do the following:

1. In Outlook, select the relevant inbox folder.
2. Click the button “Create Adobe PDF from folders.”
3. Click OK.
4. In the “Save Adobe PDF File As” box, specify a folder on your computer (e.g., client/matter) in which to save the PDF file, type a file name, and click “Save.”

To set up automatic e-mail archiving in Outlook:

1. On the Menu bar in (File, Edit, View, Go, Tools, Action, Help, Adobe PDF), click on Adobe PDF, and choose Setup Automatic Archival...
2. On the Automatic Archival tab of the Acrobat PDFMaker dialog box, select Enable Automatic Archival. Then select options for Frequency and the time of day at which automatic archiving occurs.
3. Select other options, according to your needs:
 - a. Maintain Log Of Archival Creates a record of each archiving session.
 - b. Choose File Specifies the name and location of the archiving log.
 - c. Embed Index For Faster Search Creates an index that you can search to find specific words or characters instead of having to search each individual document.
4. Click Add, and select the e-mail folders and subfolders. Then select or deselect the Convert This Folder And All Sub Folders option, as preferred, and click OK.
5. In the Save PDF Archive File As dialog box, select a name and location for the archived e-mail PDF. Then click Open.
6. Review the settings and the archive folder names listed in the Acrobat PDFMaker dialog box, and do any of the following:
 - a. To add other e-mail folders to the list, click Add and select the folder.
 - b. To remove folders from the list, select the folders and click Delete.
 - c. To change an archive file, select any folder name from the list, click Change Archive File, and specify the name and location.

7. To start archiving e-mail immediately, click Run Archival Now.

Acrobat also supports automatic e-mail archiving in Lotus Notes. The steps are essentially the same. Once a PDF e-mail archive has been created, future messages can be easily appended to an existing PDF.

Using Earlier Versions of Acrobat

These basic techniques also work with the Professional versions of Adobe Acrobat 7 and 8.

CASE OR DOCUMENT MANAGEMENT SOFTWARE

For those who are looking for solutions beyond mere e-mail management, purchasing case or document management software may make the most sense.

Case management software centralizes all client and matter data into one software program – from calendaring, docketing, conflicts, and billing to e-mail, documents, research, and more. With case management software, e-mail and attachments are stored in the appropriate case or contact file when received or sent. Mail does not remain in the Outlook inbox. Options for case management software include Amicus (www.amicusattorney.com), Practice Master (www.tabs3.com), ProLaw (www.prolaw.com), and Time Matters (www.timematters.com).

Document management software brings together *all* of an organization's sources of knowledge, including e-mail communications, scanned paper documents, word processing documents, and spreadsheets – anything that can be stored as a file. Some of the more popular document management programs are Worldox (www.worldox.com), Interwoven Worksite (formerly imange) (www.interwoven.com), Open Text eDocs (formerly Hummingbird) (www.opentext.com), and NetDocuments from LexisNexis® (<http://law.lexisnexis.com/net-documents>). For more options, Google “document management software.”

Conclusion

Once a matter is concluded, the client's computer folder or subfolder (including e-mail messages) can be digitally stored. You can then delete the original computer file to free up space on your computer hard drive.

As e-mail communication becomes more prevalent, finding a reliable means of filing client messages is critical. Whether you use one of the approaches described above or simply print all client e-mails, be consistent. Capture all messages, sent and received, as well as attachments, and retain them (electronically or in paper form) just as you would correspondence, pleadings, or other client documents. For help with e-mail management; file opening, organizing, or retention issues; or other office organizational issues, contact the practice management advisors of the PLF. Remember, your inbox is not your filing system.

Beverly Michaelis
PLF Practice Management Advisor

A CHECKLIST FOR IMAGING CLIENT FILES AND DISPOSING OF ORIGINAL DOCUMENTS

Imaging Client Files for Digital Storage

Before implementing a program to scan and digitally store client files, ask yourself: what kind of documents do you wish to store electronically and why? Do you want to scan closed client files with the intention of shredding the paper afterwards or is the goal to go paperless from the start and eliminate or drastically reduce the need to maintain a physical file? In either case, consider the following:

1. If files are to be scanned after they are closed, are notes and memoranda included? By default, the client is entitled to attorney notes and memoranda unless exceptions apply. See OSB Formal Ethics Opinion No. 2005-125 available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to File Management.
2. If the goal is to go paperless from the inception, are *electronic* notes and memoranda preserved? See OSB Formal Ethics Opinion No. 2005-125 available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to File Management.
3. Unsigned word processing documents are usually saved in their native format and stored in a subfolder for each client. How will you retain these documents once they are signed? There are several options:
 - Create a PDF from your word processing document and apply an authenticated digital signature. Retain the word processing document and the authenticated, signed PDF.
 - Create a PDF from your word processing document and use Adobe Acrobat's custom stamp tool to insert a scanned image of your signature. Retain the word processing document and the PDF with your scanned signature.
 - Create a jpeg of your scanned signature and insert it directly into your word processing document. Print the signed document to PDF.
 - Keeping your word processing document intact, print a hard copy, sign it, scan it, and store it as a PDF.

Note: See item 7 below for a discussion on saving documents in their native format. Also note that you may elect to append the signed page to your original document when creating a PDF to store in your client file. See Adobe Acrobat Help for more information on creating and using authenticated digital signatures and custom stamps. If you intend to scan your signature and insert it into word processing or PDF documents, you will need image editing software to crop the scanned signature and make the background transparent. For more information on this process, See *How to Scan Your Signature and Insert it Into a Document* available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to Technology.

4. If imaged files are to be joined with documents that are electronic in origin, are all electronic document and database sources considered in the capture process? (Documents and databases residing on network servers, Web servers, Extranets, Intranets, the Internet, local hard drives of firm PCs, laptops, home computers, zip drives, disks, portable memory sticks and flash drives, PDAs and Smartphones, or other media.)

A CHECKLIST FOR IMAGING CLIENT FILES AND DISPOSING OF ORIGINAL DOCUMENTS

5. Are documents being scanned at the lowest acceptable resolution and optimized afterwards to reduce file size? The resolution on most scanners is easily adjusted. Adobe Acrobat, version 8 and later, has an optimization feature which helps further reduce file size after scanning. (In Acrobat, click on Document, Reduce File Size...)
6. Are scanned documents reviewed for quality and completeness of electronic capture?
7. Is the shelf life of the chosen electronic format acceptable? Saving digital file content using Adobe's archival standard (PDF/A) assures that *files created in earlier versions of Acrobat are guaranteed to be readable in future versions of PDF*. This is not a given if you attempt to keep files in their native application (Microsoft® Word and WordPerfect® come to mind.)
8. Is your storage media up to the task? Storing scanned files on a hard drive or server that is properly backed up (see item 14 below) is preferable to using CDs or DVDs. Compact or digital video discs are made from layers of materials which can delaminate or oxidize over time. Environmental exposure, improper storage, or improper handling all present opportunities for this kind of media to degrade. To read more about this phenomena, see the article, "Protect Your CDs and DVDs," from the State Library and Archives of Florida, available at <http://dliis.dos.state.fl.us/archives/preservation/dvds/index.cfm>.
9. Are imaged files electronically Bates-stamped or indexed? Organized in subfiles? Bates-stamping, indexing, and organization of documents into subfiles will make it much easier to access needed information. Case management or document management software can make this process easier.
10. Scanners are usually sold with OCR (optical character reader) software. Without this technology, scanned documents are static images that cannot be searched. Is OCR software used as part of the scanning process to ensure that documents are searchable? If OCR software did not come packaged with your scanner, Adobe Acrobat, version 8 and later, has built-in text recognition capability. To OCR through Acrobat while scanning, click on Document, Scan to PDF..., select a scanner, and check the Option "Make Searchable" (Run OCR). To OCR a document in Acrobat after it has been scanned, click on Document, OCR Text Recognition, and Recognize Text using OCR... WordPerfect X4 also has built-in OCR capability. See *Building the Paperless Office* by Joe Kissell for an in-depth discussion of software, scanner settings, use of OCR technology, and more. Available at http://www.pcworld.com/businesscenter/article/138254/article.html?tk=nl_ptxnws.
11. Are privileged litigation documents clearly marked in the electronic file?
12. Are documents not subject to client disclosure clearly marked in the electronic file? See *Client Files Revisited*, available at www.osbplf.org. Click on [Practice Aids and Forms](#) and follow the link to [File Management](#).
13. Are electronic files stored securely with password protection and other precautions as necessary? If you possess electronic data containing "consumer personal information" within the meaning of the Oregon Consumer Identity Theft Protection Act (ORS 646A.600 to 646A.628) you are required to develop, implement, and maintain safeguards to protect the

A CHECKLIST FOR IMAGING CLIENT FILES AND DISPOSING OF ORIGINAL DOCUMENTS

security and disposal of the data. Failure to do so can result in civil penalties. For more information, see *2007 Legislation Alerts*, PLF *In Brief*, Issue 102, November 2007, Business Law/Consumer Protection (Identity Theft) and *Protect Client Information from Identity Theft*, PLF *In Brief*, Issue 105, August 2008.

14. Are electronic files backed up daily (or more frequently)? Are backups stored on *and* off-site? Are the backups tested periodically? For a thorough discussion on backing up computer data and applications, see *How to Backup Your Computer*, available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to Technology.
15. Is an electronic file retention policy in place and enforced? Regardless of how files are retained, the PLF recommends that all client files be kept a minimum of 10 years. Some files may need to be kept longer. For more information, see the PLF practice aid, *File Retention and Destruction*, available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to File Management.
16. The lawyer responsible for a given matter should sign-off before electronic data is destroyed. Permanent destruction of electronic data requires special expertise. For more information, see the PLF practice aid, *File Retention and Destruction*, available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to File Management.
17. Scanning files can be expensive and time-consuming. Any odd-sized paper (legal size documents, phone message slips, post-it notes, fragile carbon copies, etc.) will require special handling. All paper clips and staples must be removed. Folded and hole-punched documents may jam the scanner. Be prepared to outsource or devote adequate staff time to major scanning projects. If you truly want to go paperless, or simply have less paper, start with active files rather than closed files. Form good paper-processing habits, such as retaining client e-mails electronically rather than printing hard copies. For more information on retaining client e-mails, see the PLF practice aid, *Managing Client E-Mail*, available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to Technology. The latest version of Adobe Acrobat makes e-mail archiving even easier. See *Technology Tips – Using Acrobat 9 in the Law Office*, PLF *In Brief*, Issue 105, August 2008.
18. Is the firm aware of ethical considerations in going paperless? See Helen Hierschbiel, "Going Paperless," *Oregon State Bar Bulletin*, April 2009. <http://www.osbar.org/publications/bulletin/09apr/barcounsel.html>.

Disposition of Original Documents

1. Satisfy yourself that the imaging process has integrity.
2. Communicate file retention policies to clients. Ideally, the issue of record retention should be addressed in the initial client fee agreement or engagement letter and again at the time of file closing. The PLF has several sample fee agreement and engagement letters, as well as a sample closing letter, which incorporate file retention language. These practice aids are located at www.osbplf.org. Click on Practice Aids and Forms and follow the link to Engagement Letters and Disengagement Letters.

A CHECKLIST FOR IMAGING CLIENT FILES AND DISPOSING OF ORIGINAL DOCUMENTS

3. Review each file *individually*. Wholesale rules cannot apply due to discrepancies in file content. (See discussion below.)
4. Does the imaged file contain any client property? Documents, photographs, receipts, cancelled checks, or other materials provided by the client are generally considered *property* of the client and cannot be destroyed. However, this is an area that requires judgment. It may be difficult to distinguish between one-of-a-kind original documents versus copies of documents provided by the client.

Do your files contain client photographs? While it may be possible to scan and store a photograph as a high-quality digital image which can be printed at any time, the original nevertheless belongs to the client, is his/her property, and may be of special sentimental value.

The PLF recommends that lawyers avoid accepting original client property, or at a minimum, return client property at the time of file closing. For more information, see “Closing Files,” a chapter in *A Guide to Setting Up and Running Your Law Office*, published by the PLF and available at www.osbplf.org. Click on [Books from the PLF](#). The PLF also offers a File Closing Checklist. From the PLF Web site, click on [Practice Aids and Forms](#), and follow the link to [File Management](#).

5. Does the file contain any original documents whose authenticity could be disputed? Does the file contain any original documents that have particular legal importance? If you keep original wills, 40 years must elapse before the will can be disposed of. ORS 112.815 provides:

“An attorney who has custody of a will may dispose of the will in accordance with ORS 112.820 if: (1) The attorney is licensed to practice law in the state of Oregon; (2) At least 40 years has elapsed since execution of the will; (3) The attorney does not know and after diligent inquiry cannot ascertain the address of the testator; and (4) The will is not subject to a contract to make a will or devise or not to revoke a will or devise.”

6. File disposition must comply with applicable laws and the Oregon Rules of Professional Conduct. The Fair and Accurate Credit Transaction Act (FACTA) Disposal Rule (the Rule) requires any person who maintains or possesses “consumer information” for a business purpose to properly dispose of such information by taking “reasonable measures” to protect against unauthorized access to or use of the information in connection with its disposal. The Rule defines “consumer information” as any information about an individual that is in or derived from a consumer report. Although the Rule doesn’t specifically refer to lawyers, it may be interpreted to apply to lawyers, and **the practices specified in the Rule would safeguard clients’ confidential information.**

“Reasonable measures” for disposal under the Rule are (1) burning, pulverizing, or shredding physical documents; (2) erasing or physically destroying electronic media; and

A CHECKLIST FOR IMAGING CLIENT FILES AND DISPOSING OF ORIGINAL DOCUMENTS

(3) entering into a contract with a document disposal service. FACTA took effect June 1, 2005. Also see Oregon State Bar Legal Ethics Op 2005-141.

7. The lawyer responsible for a given matter should sign-off before the client's paper file is destroyed.

Resources

Professional Liability Fund

- Review the other technology practice aids available on the PLF Web site at www.osbplf.org. Select Practice Aids & Forms, then Technology.
- Download the CLE handout and order the free DVD from *Practical Law Office Solutions and Technology Fair for Sole and Small Firms* at www.osbplf.org. Select Programs on Video.

American Bar Association

- The ABA offers many print and online resources with an ongoing focus on technology, including the paperless office. These include [Law Practice magazine](#), [Law Practice Today](#), and the [Legal Technology Resource Center](#). For an overview of resources, visit the [ABA Law Practice Management Section](#).

FILE CLOSING CHECKLIST

Client _____

File/Matter No. _____

Matter: _____

Date: _____

Atty: _____

| DATE | INITIALS | ACTION FOR ALL FILES – PAPER AND ELECTRONIC |
|------|----------|---|
| | | 1. Make sure notices of <i>lis pendens</i> or lien abstracts have been discharged. |
| | | 2. Make sure all original judgments, orders, decrees, cost bills, deeds, contracts, etc. are filed or recorded. |
| | | 3. If an unsatisfied judgment is involved, diary the file for 3, 6, and 9 years. Review for assets and file certificate of extension before expiration of 10 years. |
| | | 4. Make sure any UCC or security interest has been perfected and filed. Diary appropriate renewal date and reminders. |
| | | 5. If the file involves a lease or option to buy, diary the file for 6 months prior to expiration. |
| | | 6. If the file involves a criminal matter, check to see if expungement is possible and diary the file for 3 years. |
| | | 7. Check for unbilled activities or balance remaining in trust and send final bill or accounting to client. |
| | | 8. Review the file for any further work to be done. |
| | | 9. Review file for additional names to be included in conflict system. |
| | | 10. Review file for documents to be included in the firm's form or template directory. |
| | | 11. If litigation or tribunal matter, withdraw as attorney of record. |
| | | 12. Assign destruction date. Regardless of how files are kept, the PLF recommends that all files be kept for a minimum of 10 years. See the PLF practice aid, <i>File Retention and Destruction</i> , available at www.osbplf.org . Select Practice Aids and Forms, then File Management. |
| | | 13. Send closing letter to client. Advise client of file destruction date and firm policy on retrieval and provision of closed file materials. Return client's original documents and include client questionnaire, if appropriate. |
| | | 14. Remove file from active status and enter destruction date into calendar, case management system, or closed file inventory. |
| DATE | INITIALS | ACTION FOR PAPER FILES ONLY |
| | | 15. Assign closed file number. |
| | | 16. Mark the file closed and enter closed file number in case management system or closed file inventory. |
| | | 17. Remove duplicate documents, unused note pads, and other unneeded items from file. (DO NOT remove draft work product, memos, phone messages, research, or attorney notes relating to the merits of the case.) |
| | | 18. Check for loose, unfiled documents and place in the file. |
| | | 19. Check network servers, local hard drives, laptops, zip drives, disks, flash drives, PDAs, etc. for electronic material not in file. Print hard copies, file, and purge electronic data or move electronic data onto appropriate storage media according to the firm's policy for retention of electronic records. Also see step 25 below. |
| | | 20. Move file to storage. |

FILE CLOSING CHECKLIST

Client _____

File/Matter No. _____

Matter: _____

Date: _____

Atty: _____

| DATE | INITIALS | ACTION FOR ELECTRONIC FILES |
|------|----------|--|
| | | 21. Review the PLF practice aid, <i>Checklist for Imaging Client Files and Disposing of Original Documents</i> , available at www.osbplf.org . Select Practice Aids and Forms, then Technology. |
| | | 22. Does the matter involve original documents whose authenticity could be disputed? Or documents that have particular legal importance, such as an original Will? These documents cannot be discarded after scanning. Provide them to the client or make other arrangements to protect and store valuable originals. The Professional Liability Fund recommends against storing client's original wills. See "Why Did We EVER Want to Keep Original Wills?" <i>In Brief</i> (March 2007). Available at www.osbplf.org . Select <i>In Brief</i> , then March 2007. |
| | | 23. Does the firm possess original documents or property belonging to the client? Documents, photographs, receipts, cancelled checks, or other materials provided by the client are generally considered <i>property</i> of the client and cannot be destroyed. Keep scanned copies of these items for <u>your</u> records. Return the client's original property <u>to the client</u> . |
| | | 24. Verify completeness of client's electronic file. Check for loose, unscanned documents, e-mails, or other records. Scan, save, or move items to client's electronic file as needed. If you are scanning a paper file in its entirety, consider providing the client with the paper version once you are assured the file has been accurately scanned. This will save destruction fees and give the client a complete copy of their file. |
| | | 25. If you possess electronic data containing "consumer personal information" within the meaning of the Oregon Consumer Identity Theft Protection Act (ORS 646A.600 to 646A.628) you are required to develop, implement, and maintain safeguards to protect the security and disposal of the data. Failure to do so can result in civil penalties. See "2007 Legislation Alerts - Business Law/Consumer Protection (Identity Theft)," <i>In Brief</i> (November 2007) and "Protect Client Information from Identity Theft," <i>In Brief</i> (August 2008.) Go to www.osbplf.org , select <i>In Brief</i> , then choose the month and year of the issue you wish to access. |
| | | 26. Be prepared to meet future requests for file material. Clients are entitled to file information in a format they can access. This may mean printing all or part of a file. Inform clients of the firm's policy on retrieval and provision of closed files at the time of file closing. See step 13 above. |
| | | 27. Enter closed file information into case management system or closed file inventory. |
| | | 28. Properly archive electronic file for duration of firm's retention period. Establish access rights to ensure that documents cannot be inadvertently modified, destroyed, or altered. Retain file material for 10 or more years. See step 12 above. |
| | | 29. Establish, test, and maintain on and off-site backups. See the PLF practice aid, <i>How to Back Up Your Computer</i> , available at www.osbplf.org . Select Practice Aids and Forms, then Technology. |

FILE RETENTION AND DESTRUCTION

Most client files (whether paper or electronic) should be kept for a minimum of 10 years to ensure the file will be available to defend you against malpractice claims. Files that should be kept for *more* than 10 years include:

1. Cases involving a minor who is still a minor at the end of 10 years;
2. Estate plans for a client who is still alive 10 years after the work is performed;
3. Contracts or other agreements that are still being paid off at the end of 10 years;
4. Cases in which a judgment should be renewed;
5. Files establishing a tax basis in property;
6. Criminal law – keep for one year after the client is released from custody¹
7. Support and custody files in which the children are minors or the support obligation continues;
8. Corporate books and records;
9. Adoption files;
10. Intellectual property files; and
11. Files of problem clients.

Whenever possible, do not keep original papers (including estate plans or wills) of clients. If you keep original wills, 40 years must elapse before the will can be disposed of. ORS 112.815 provides: “An attorney who has custody of a will may dispose of the will in accordance with ORS 112.820 if: (1) The attorney is licensed to practice law in the state of Oregon; (2) At least 40 years has elapsed since execution of the will; (3) The attorney does not know and after diligent inquiry cannot ascertain the address of the testator; and (4) The will is not subject to a contract to make a will or devise or not to revoke a will or devise.”

When closing your file, return original documents to clients or transfer them to their new attorneys. Be sure to get a receipt for the property and keep the receipt in your paper or electronic file.

The first step in the file retention process begins **when you are retained by the client**. Your **fee agreement** should notify the client that you will be destroying the file and should specify when that will occur. The client’s signature on the fee agreement will provide consent to destroy the file. In addition, your **engagement letter** should remind clients that you will be destroying the file after certain conditions are met.

The second step in the file retention process is **when the file is closed**. When closing the file, establish a destruction date and calendar that date. If you have not already obtained the client’s permission to destroy the file (in the fee agreement and engagement letter), you can get written permission when you close the file or you can make sure that the client has a complete copy of the file. This includes all pleadings, correspondence, and other papers and documents necessary for the client to construct a file for personal use. If you choose the latter alternative, be sure to document that the client has a complete file. This means that the paper or electronic file you have in your office is *yours* (and can be destroyed without permission) and the file the client has is the *client’s* copy. File closing is also a good time to advise clients of your firm’s policy on retrieving and providing file material once a matter is closed.

The final step in the file retention process involves reviewing the firm's electronic records for client-related material. Electronic data may reside on network servers, Web servers, Extranets, Intranets, the Internet, local hard drives of firm PCs, laptops, home computers, zip drives, disks, portable memory sticks and flash drives, PDAs and Smartphones, or other media. Examples include e-mail communications, instant messages, electronic faxes, digitized evidence, word processing, or other documents generated during the course of the case. Review these sources to ensure that the client file is complete. If these documents exist only in electronic form, you may choose to store them electronically or print them out and place them in the appropriate location in the client's file.

If you possess electronic data containing "consumer personal information" within the meaning of the Oregon Consumer Identity Theft Protection Act (ORS 646A.600 to 646A.628) you are required to develop, implement, and maintain safeguards to protect the security and disposal of the data. Failure to do so can result in civil penalties. For more information, See "2007 Legislation Alerts - Business Law/Consumer Protection (Identity Theft)," *In Brief* (November 2007) and "Protect Client Information from Identity Theft," *In Brief* (August 2008.)

The retention policy for electronic data should be consistent with the retention policy for paper files. Regardless of how files are retained, the PLF recommends that all client files be kept a minimum of 10 years. If you intend to scan client files and dispose of the original documents, review the PLF practice aid, "A Checklist for Imaging Files and Disposing of Original Documents," available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to Technology.

Organization and Destruction of Closed Files

Closed paper files should be organized by years or organized into two groups: files that are 10 years and older and files that are less than 10 years old. If possible, however, separate closed client files into groups according to the year the work was completed so that each year you know which files to review for destruction. Electronically retained files should be organized in a similar fashion, or identified in a manner that allows you to easily determine when the file was closed.

Keep a permanent inventory of files you destroy and the destruction dates. Before destroying any client file, review it carefully. Some files need to be kept longer than 10 years, as noted above. Others may contain conflict information that needs to be added to your conflict database or original documents of the client, which should never be destroyed. Always retain proof of the client's consent to destroy the file. This is easily done by including the client's consent in your fee agreement or engagement letter and retaining the letters with your inventory of destroyed files. Follow the same guidelines when evaluating whether to destroy electronic records. For additional guidance on closing client files, See the PLF practice aid "File Closing Checklist," available at www.osbplf.org. Click on Practice Aids and Forms and follow the link to File Management.

On June 1, 2005, a new law took effect that regulates the disposal of consumer information. The Fair and Accurate Credit Transaction Act (FACTA) Disposal Rule (the Rule) requires any person who maintains or possesses "consumer information" for a business purpose to properly dispose of such information by taking "reasonable measures" to protect against unauthorized access to or use of the information in connection with its disposal. The Rule defines "consumer information" as any information about an individual that is in or derived from a consumer report. Although the Rule doesn't specifically refer to lawyers, it may be

interpreted to apply to lawyers, and the practices specified in the Rule would safeguard clients' confidential information.

“Reasonable measures” for disposal under the Rule are (1) burning, pulverizing, or shredding physical documents; (2) erasing or physically destroying electronic media; and (3) entering into a contract with a document disposal service. Also see Oregon State Bar Legal Ethics Op 2005-141. Permanent destruction of electronic data requires special expertise.²

¹ In criminal law cases, an action for legal malpractice may not accrue, for statute of limitation purposes, until the date on which the conviction is set aside and the client is released. *Stevens v. Bispham*, 316 Or 221 (1993).

² With proper technique, deleted documents can be retrieved and restored. Consult with a computer expert to determine what steps must be taken to ensure that client documents have been *completely* purged from your system, including backups, if applicable. For recommendations on how to store data for long-term archival needs, contact the Association for Records Management Professionals at www.arma.org.

DOCKET CONTROL CHECKLIST

DO have a formal docket control system which provides:

1. Immediate and automatic entry of dates;
2. Double checking of all entries;
3. Allowance for sufficient lead time to complete tasks;
4. Follow-up checking;
5. Backup or duplication of the main calendaring system.

DO maintain a file tickling system as a back-up to your docket control system.

DO have a staff conference to discuss how to use the system and why it is so important. Make sure new employees (both attorneys and support staff) are familiarized with the system.

DO use a new client matter intake form which calls for an answer to the question, "What deadline dates need to be calendared?"

DO set spam or junk e-mail filters to allow receipt of e-notices from the courts in which you practice. Otherwise, you may miss an important deadline or notice. You may need to make this change at the Internet Service Provider (ISP) level *and* in the settings of your specific e-mail program. Example: Assume Verizon is your ISP and Microsoft Outlook® is your e-mail program. Log on to your e-mail account with Verizon at www.verizon.net, and change the spam settings using Verizon's "Spam Detector." Do the same with Outlook by changing your junk e-mail options (specific steps vary depending on which version of Outlook you are using.) These steps assure that neither your ISP (Verizon) nor your e-mail program (Outlook) will block e-mail from the court.

DO create agents or rules in your e-mail program to duplicate and forward copies of court notices from the attorney-of-record to appropriate staff. Some electronic case filing systems only generate e-notices to the attorney-of-record. Firm addresses (docketing@johndoelawfirm.com) or staff e-mail addresses may not be permitted.

DO remember to transfer all dates and events from personal calendars to your main docket control system as soon as possible. If your calendaring system is manual, consider keeping a supply of brightly-colored calendar slips on hand and USE THEM! Lawyers can carry these with them when outside the office. If you have a laptop, PDA, or similar device, be sure to synchronize it to your desktop and/or network computer(s) as soon as you return to the office.

DO make certain your docketing calendar is easily accessible by all lawyers and staff. If your system is manual, consider color coding entries.

DO have someone assigned to screen incoming mail for calendaring needs **BEFORE** the mail is distributed. For more information on proper handling of mail, see the PLF practice aids, *Mail Handling – Paper Filing System* and *Mail Handling – Paperless Filing System*, available at www.osbplf.org. Click on Practice Aids and Forms, then follow the link to Mail Handling.

DO encourage daily conferences between lawyers and assigned staff. Use this time to confirm new calendar items, discuss cases tickled for work, and double-check that all dates and events noted on personal calendars have been transferred to the main docket control system.

DO have a definite game plan for handling the "final reminder," which covers:

1. Illness or other unexpected absence from the office;
2. Procrastination;
3. Preventing the file or memo from getting buried on a desk;
4. Verifying actual receipt of the item at its destination.

DON'T leave things until the last day.

DON'T assume anything--check it out.

DIARY / TICKLER SYSTEMS

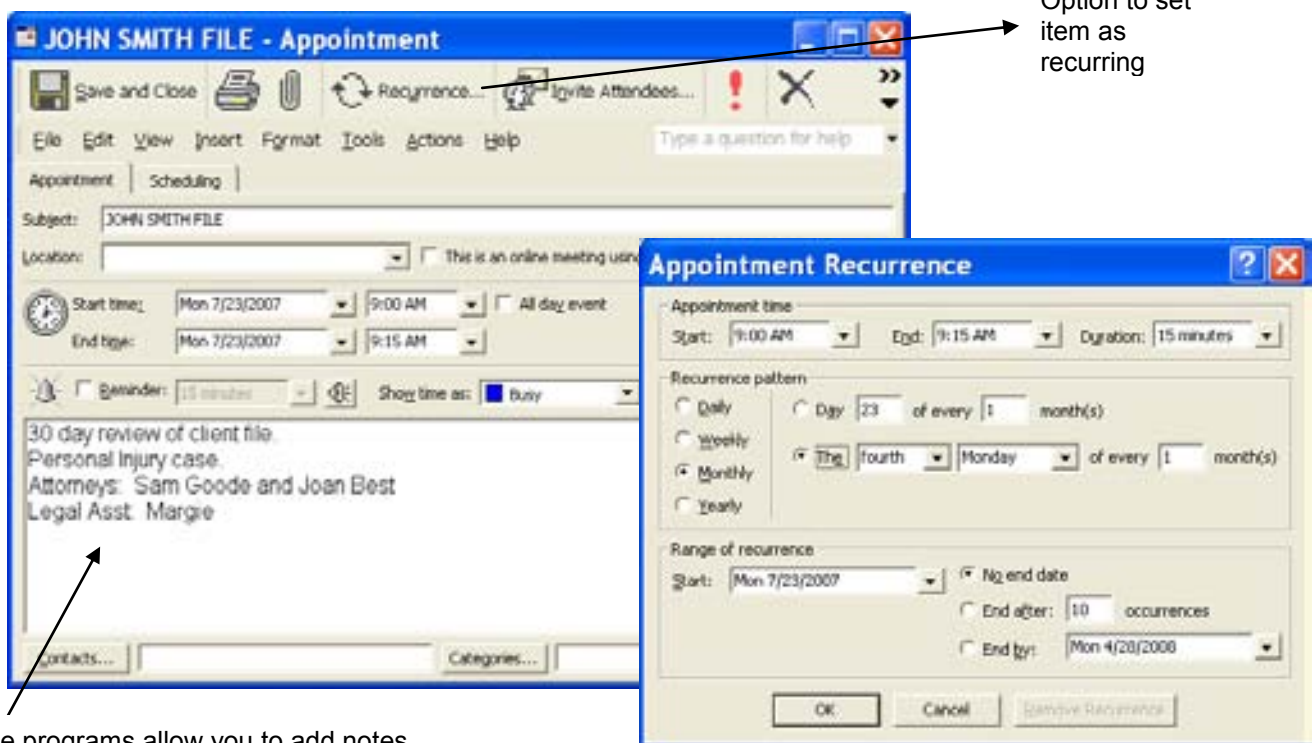
No file should ever be put in the file cabinet without a diary date on it or be tickled for more than 60 days unless it is a corporation and only annual meetings need to be noted. It is best to review all files at least once in any 30-day period. If the attorney working on the file does not indicate a diary date, the secretary should check with the attorney to determine when it should next be reviewed.

The most elementary system for the sole practitioner with a limited number of files is to keep a list of all open files. This list should be printed on the first day of each month and kept readily available on your desk. As work is performed on a file or the file is reviewed during the month, that file is crossed off the list. On the last day of the month, a quick review of the list will indicate which files were not seen during the month. You can then pull these files for review.

Prior to the widespread adoption of computerized calendaring programs, attorneys used index cards to tickle files. With an index card system, each open file is listed on a separate 3x5 card kept in a file box with daily and monthly dividers. When the client file is tickled, the 3x5 card is placed behind the corresponding date in the card box. When the file is pulled for review, the card is then moved to the front of the file box. Upon completion of the file review, a new tickle date is noted on the card and the card is refiled under the new tickle date. Maintaining a tickle system using index cards is labor-intensive and can lead to errors. It is easy for cards to be inadvertently misfiled or lost. Computerized calendaring systems are more reliable.

If you are using a computerized calendaring program, set tickle dates for each of your files by using recurring appointments or tasks. In most cases, the screen to create a new appointment or task will have an option to set that item as recurring. If you are using recurring appointments or tasks to tickle files, choose a recurrence pattern that falls on a work day (fourth Monday of the month) instead of a specific date, which may recur on a weekend or holiday in the future.

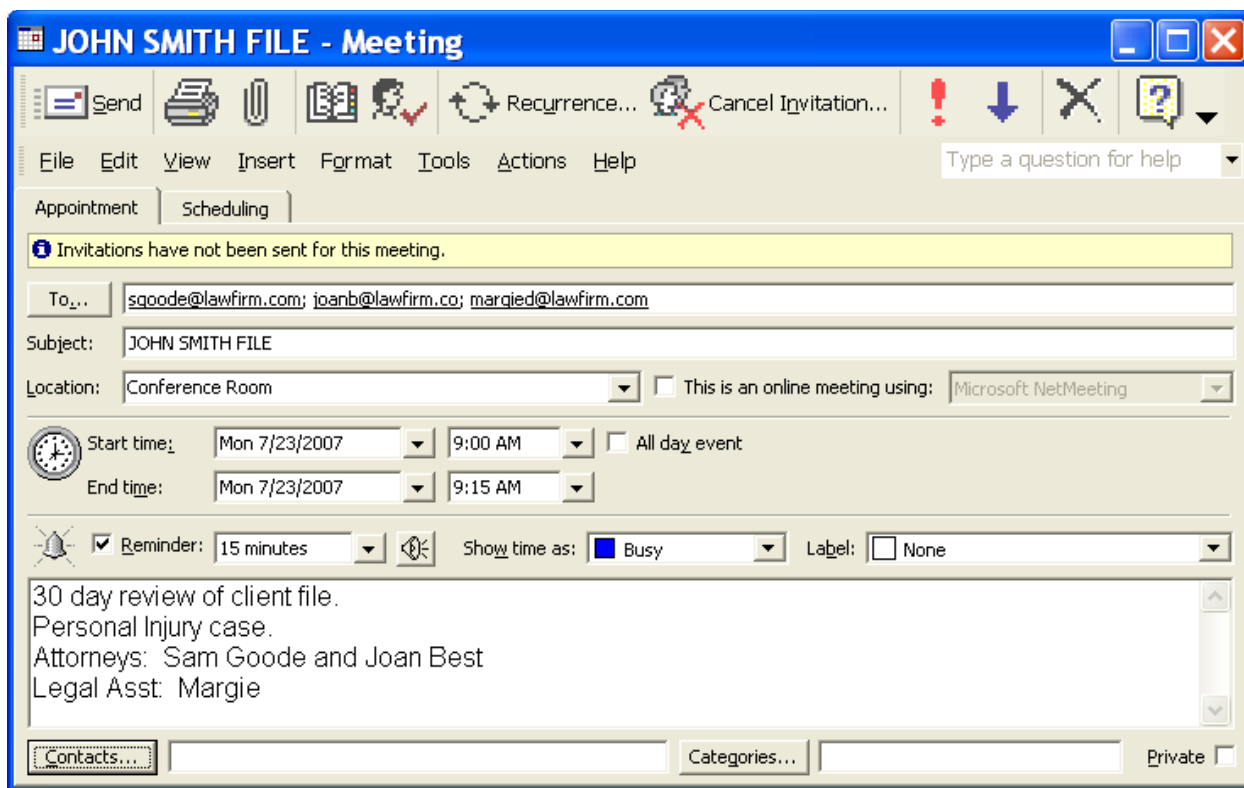
Here is an example of a recurring appointment set in Microsoft Outlook:



Option to set item as recurring

Some programs allow you to add notes, such as the reason the file is being tickled.

Your program may also allow you to set up a group of attorneys and legal assistants who need to participate in the file review by selecting the option to invite attendees. Your calendar appointment becomes an email that you send to those parties who should attend the client file review:



Each morning you or your secretary should pull all files tickled for that day. If, after reviewing the file, you determine there is nothing to be done at that time, the file is re-tickled to another future date. **NO FILE SHOULD EVER BE PLACED IN THE FILING CABINET WITHOUT A FUTURE TICKLE DATE.** If the file is tickled for a specific task to be performed, it should be accomplished that day. If there is no immediate deadline and you are unable to perform the task that day, tickle the file one to three days later when you will have time to complete the task. Don't let files stack up on your desk. Be realistic about what tasks you can complete, and use your tickle system to make sure items you cannot complete today will come across your desk in a day or two when they can be completed.

A good tickler system will alleviate the need to keep files stacked on your desk if they are not being worked on or the need to set aside an entire day reviewing every open file. A tickler system also prevents files from falling through the cracks when they get stuck in the file cabinet because nothing has happened to create any activity on the file.

Beware of These Traps in E-Filing and E-Notices

Two different federal appellate courts recently dismissed cases in which the attorneys did not comply with e-filing rules. Here are a couple of tips based on the rulings in those cases.

Make Sure You Are Filing the Right Document. In the first case, the plaintiff filed what it thought was a notice of appeal on December 26, five days before the deadline on December 31. However, the document was instead a request for oral argument that had mistakenly been filed. The electronic docket showed that the plaintiff had been notified of its mistake and that the plaintiff had refiled within five working days (in accordance with local rules). The 5th Circuit ruled that the plaintiff's appeal had to be dismissed without any consideration on the merits because the request for oral argument did not constitute a notice of appeal and because the local rule did not operate to extend the applicable deadline. (*Kinsley v. Lakeview Reg'l Med. Ctr.*, 5th Cir., June 3, 2009.)

An Accidentally Deleted E-mail Is Not an Excuse for Missing a Deadline. In the second case, the losing party claimed to have not received the e-mail notifying it that the trial court had issued a final order. At an evidentiary hearing, the court determined that the losing party's e-mail system had received the e-mail, and that someone at the law firm must have accidentally deleted the e-mail, leaving no record of it. The 8th Circuit determined that this was not a legitimate excuse for failing to file a notice of appeal in a timely fashion. (*American Boat Co. v. Unknown Sunken Barge*, 8th Cir., June 4, 2009.)

E-notices from courts are also fraught with pitfalls. Here are a couple of helpful tips.

Spam and Junk E-Mail Filters Can Block Court Notices.

An attorney who failed to appear in Colorado was required to pay the opposing party's attorney fees when his firm's spam filter inadvertently blocked e-notice of a settlement conference. *Pace v. United Serv. Auto. Ass'n*, 2007 U.S. Dist. LEXIS 49425 (D. Colo. July 9, 2007). To avoid this trap, set spam or junk e-mail filters to allow receipt of e-notices from the courts in which you practice. Otherwise, you may miss an important deadline or notice. You may need to make this change at the Internet Service Provider (ISP) level and in the settings of your specific e-mail program. Example: Assume Verizon is your ISP and Microsoft Outlook® is your e-mail program. Log on to your e-mail account with Verizon at www.verizon.net, and change the spam settings using Verizon's "Spam Detector." Do the same with Outlook by changing your junk e-mail options (specific steps vary depending on which version of Outlook you are using). These steps ensure that neither your ISP (Verizon) nor your e-mail program (Outlook) will block e-notices from the court.

Keep Staff Informed by Automatically Forwarding Court E-Notices.

In the "good old days," staff docketed deadline dates from the U.S. postal mail. By opening, date-stamping, and processing court notices and other deadline-related documents, they automatically knew the status of the attorney's cases and were able to keep the docket up-to-date. In today's law office, e-mail from opposing counsel and courts, along with electronic case filing, has replaced much of the paper. While going paperless is beneficial in many ways, it does have an unintended side effect: cutting staff out of the loop.

DISCLAIMER

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

Consider creating agents or rules in your e-mail program to duplicate and forward copies of court notices to staff. You may want to do the same with e-mail from opposing counsel or clients. This will keep staff informed and allow them to immediately and automatically docket deadline dates. If you are ill, on vacation, or simply get buried with work and don't have time to go through your inbox, staff can continue to monitor incoming e-mail.

BEVERLY MICHAELIS
PLF PRACTICE MANAGEMENT ADVISOR

*Source of information about federal appellate cases:
Fastcase blogspot, June 11, 2009.*

CONFLICT OF INTEREST SYSTEMS

Conflicts of interest can lead to serious malpractice and ethical problems. To detect conflicts, a good conflicts checking system is essential. No lawyer can remember every person connected with every case. Eventually a new client will appear with interests opposed to a present or past client. If undetected, such a conflict will cause much wasted effort if you are eventually forced to resign from the case and can result in malpractice claims and disciplinary proceedings.

One type of conflict problem lawyers run into is representation of multiple parties. Representing husband and wife, buyer and seller, insured and insurer, estate and administrator, directors and officers, guardian and ward, or trustee and beneficiary can be dangerous because the parties' interests may diverge. Any time multiple parties are represented or the lawyer has a personal interest in the matter, conflicts can arise.

Conflict problems also arise when lawyers fail to document that they are *not* representing someone. For example, assume a husband and wife want an amicable dissolution. They come to you and ask you to represent both of them.

In this type of situation, documentation is critical. Assuming that you are permitted to represent one of the parties, confirm representation of the client with an engagement letter (see *New Clients, supra*) and send the other party a nonengagement letter. The nonengagement letter should state that you are not representing the nonclient's interests and that the nonclient should seek independent counsel.

A good conflict checking system will detect possible conflicts of interest before representation. Nevertheless, some conflicts may arise during representation. Every lawyer should develop policies for handling conflict situations as they arise. Follow ORPCs 1.7, 1.8, and 1.9, and be sure to carefully document your actions.

A poor conflict system is as bad as having no conflict system at all. There are different approaches to setting up conflict systems, depending on the size and type of office. All effective systems have certain things in common. A good conflict system has these characteristics:

1. The system is integrated with other office systems;
2. The system provides for easy access to conflict data for everyone in the office;
3. Checks are conducted at the three key junctures: before the initial interview, before a new file is opened, and when a new party enters the case;
4. Searches check for spelling variations of names;
5. Conflict entries show the party's relationship with the client;
6. All parties connected with a case are entered into the system; and
7. Conflict searches are documented in the file.

Creating a Conflict Checking System

Index Card System or Computer Database?

The traditional conflict system used index cards to keep track of conflict names. This system was slow to maintain and check. With the advent of computers, conflict systems have improved. Now a simple database on a computer allows for fast and immediate conflict checking. Databases have become very inexpensive and are often included in the software bundle that comes with new computers.

The database stores information on records in fields. When you set up the database, you select the particular fields that will appear on each record. When you create a new record, the fields will automatically appear to prompt the user to enter the correct information.

The big advantage of a database is that you can search the records using a particular name. Once you give the command, the database scans all the records in the database to see whether the designated name is present. If the name appears in any record, the computer pulls that record up onto the screen.

When shopping for a database, look for one that is easily searchable and will hold enough records. Many databases hold an unlimited number of records while others are limited. We recommend a minimum of 5000 records for the new sole practitioner.

Setting Up the Conflict Database

When you set up a database for your practice, include the following fields in each record:

| | |
|------------------------|--|
| Date Opened: | (the date when the file or matter was opened) |
| Matter Name: | (the name of the file or matter) |
| Matter Number: | (the number assigned when the file or matter was opened, if applicable) |
| Client Name: | (the name of the client) ¹ |
| Attorney: | (initials of the responsible lawyer, if applicable) |
| Description of Matter: | (a description of the matter detailed enough to allow the user to determine whether a conflict exists without having to pull the file) |
| Conflict Names: | (names of all related and adverse parties and their relationships to the client) ² |
| Date Closed: | (the date when the file or matter was closed) |
| Closed File Number: | (the number assigned when the file or matter was closed) |
| Date Destroyed: | (the date when the file or matter was destroyed, if applicable) |

¹ This field could be further divided to separately track the client by last name, first name, and middle name.

² Conflicts can also be tracked in two separate fields, one for adverse parties and one for related parties.

Other fields that could be added to a conflict database include the client's federal taxpayer identification or Social Security number and the name of the opposing counsel. At a minimum, always include each party's relationship with the client or role in the case. This information makes it much easier to quickly assess the seriousness of a potential conflict.

Case Management Software

A case management program can be an alternative to setting up your own database. This type of software usually allows you to print a "conflict" report for the file and integrates various office systems (conflicts, client database, matter database, calendar, tickler system, etc.) into one product.

This "all in one" software has become very popular. The PLF practice management advisors monitor new developments and can provide information about this type of software.

Using a Conflict System

A Checking Routine

Set up a procedure for checking conflicts. Conflicts should be checked three times. First, check for conflicts when a potential client first contacts you but before the initial interview. (A preliminary check of the potential client's name allows you to decline further discussion, preventing a crucial divulgence of confidences.) Second, do a more thorough check before you open a new file for that client. After talking with the potential client, you will have the names of others connected with the case. Third, check the conflict system whenever a new party enters the case.

Office Sharing

Lawyers sharing offices *may* need to provide each other with the names of their clients so that a conflict of interest check can be completed. However, before revealing a client's name to other lawyers in your office share, obtain the client's informed consent in writing. OSB Legal Ethics Op. 2005-50 cautions lawyers sharing offices to avoid conflicts of interest by (1) not holding themselves out to the public as members of the same firm through joint advertising, joint letterhead, or otherwise; (2) respecting confidentiality of information relating to the representation of their respective clients and insuring the same from their employees; and (3) keeping their respective files separate. If these steps are not taken, then lawyers in an office share cannot represent adverse parties. If a common telephone system is used, office sharers must not represent adverse parties unless they have taken steps to assure that telephone messages containing client information or legal advice are not given to or transmitted by shared employees. Mail must not be opened by shared employees. If the lawyers share a secretary or other employee who is in possession of the confidences or secrets of both lawyers, then the simultaneous representation of adverse parties would be prohibited.

Document Conflict Checks

Assign responsibility for conflict checking at each of the three stages mentioned above, and establish a method for recording that a check was completed. A client intake sheet or a specific conflict check request form are possible ways for keeping track of this. Always show the names that were checked and who performed the check. When a new file is opened, make sure that the conflict check was actually done.

Input New Conflict Information

The person checking for conflicts should also input the new conflict information from the client intake sheets or conflict check requests. Be sure to include everyone connected with the case. Lawyers in your own firm, staff members, and close relatives of lawyers and staff should be listed in the conflict system. This insures that cases will not be taken against people connected with the firm.

In addition to all clients, enter the names of all prospective clients and declined clients into the conflict system. A failure to enter prospective or declined clients in the conflict system can be embarrassing and costly and may result in ethical or malpractice claims against the lawyer. For example, assume a husband comes in for a consultation because he is contemplating divorce.

During the consultation, the husband discloses confidential information. The husband then decides not to proceed with the divorce, or the lawyer declines the husband as a client. Two years later, the wife comes to the lawyer seeking a divorce. If the lawyer accepts the wife as a client, the lawyer will have a conflict of interest. This could happen easily if the lawyer forgot about the consultation with the husband and did not maintain a record of consultations in the conflict system. A similar situation can occur when two lawyers in the same firm interview prospective clients who have adverse interests.

When a Name Is Found

If a name is found in the conflict system, notify the responsible lawyer immediately. The faster the lawyer is aware of the potential client's relationship to a current or past case, the better position the lawyer is in to make a decision to decline representation or make proper disclosure. If a name comes up during a conflict check, it does not necessarily mean there is a conflict. The lawyer responsible for the client or matter must make the final decision. However, if there is no way to check for conflicts, or if a check is not done, the lawyer will not know until it is too late.

If the lawyer decides to decline representation, notify the declined client immediately. To protect client confidentiality, state only that a potential conflict exists. Do not provide any further details to the declined client. Always document notice and declination of representation with a nonengagement letter.

New Lawyers and Staff

Conflicts can arise when a new lawyer or staff member joins the firm. The new lawyer or staff member may have worked on cases at another firm that present a conflict with your firm's clients. Every lawyer and staff member should maintain a personal list of former clients. Have the new person review a list of the firm's clients and compare it with his or her personal list. When the comparison is complete, incorporate the new person's former clients into the firm's conflict system. This step ensures that all lawyers in the firm will be aware of any potential conflicts the new person might have. (The new person's conflicts are now the firm's conflicts unless the screening rule in ORPC 1.10 applies.)

When a Lawyer or Staff Member Leaves the Firm

When leaving a firm, a lawyer or staff member should take a list of the clients to whom he or she provided legal services. The list will let the lawyer or staff member screen for conflicts in his or her new office. If the lawyer or staff member did not maintain a list of the clients he or she served, the old firm may be able to provide the list from the firm's conflict system. (This option may not be available for staff members.)

If the firm's conflict system accurately reflects all the matters the lawyer worked on while at the firm, the firm can print a report for the lawyer or provide the information electronically, if available. If the firm's conflict system tracks only the primary lawyer on client matters and does not reflect all the lawyers who may have worked on a given file, the firm may want to create the necessary conflict information from billing records or provide the departing lawyer with a list of all the matters that were opened during the time the departing lawyer was employed at the firm.

New Client List

Regularly circulate a list of new clients and cases to all lawyers and staff in the office. Ask that everyone review the list for possible conflicts that may not be in the conflict system. Someone in the office may recognize a conflict from the list that would not be detected otherwise.

Request for Conflict Search and System Entry

FILE NAME John Smith – Business Lease

CLIENT/COMPANY NAME John Smith

CLIENT MATTER Business Lease RESPONSIBLE ATTORNEY MLS

RELATED PARTIES

NAME

RELATIONSHIP

LB Properties, Inc. Lessor

Clifford Rhodes President of LB Properties

Margaret Ellis Real Estate Agent

555 SE Downs, No. 115, Portland, Oregon Property Address

NEW MATTER (to open new file)

ADDITIONAL INFORMATION (to update file)

SEARCH ONLY (do not add information)

Requested by MLS

Request Date March 2, 2009

NO CONFLICTS FOUND

NAMES FOUND AS FOLLOWS:

Searched by BLL

Search Date March 3, 2009

Types of Names to be Added to Conflict List

(This is not a complete list.)

| | |
|--|--|
| <p style="text-align: center;"><u>Litigation</u></p> <p>Insured Plaintiff(s) Guardian ad Litem Expert Witness(es)</p> <p style="text-align: center;">Insurer Defendant(s) Spouse/Partner Lay Witness(es)</p> | <p style="text-align: center;"><u>Corporate/Business/Real Estate</u></p> <p>Owner(Spouse/Partner) Subsidiaries/Affiliates Buyer(s) Seller(s) Partner(s) Officer(s) Shareholder(s) Director(s) Key Employees Property Address Taxlot ID Number</p> <p>Any opposing party in a transaction</p> |
| <p style="text-align: center;"><u>Probate</u></p> <p>Deceased Spouse or Partner/Children/Heirs/Devises Trustee/Guardian/Conservator</p> <p style="text-align: center;">Personal Representative</p> | <p style="text-align: center;"><u>Estate Planning</u></p> <p>Testator Representative Spouse or Partner/Children/Heirs/Devises Trustee/Guardian</p> <p style="text-align: center;">Personal</p> |
| <p style="text-align: center;"><u>Domestic Relations</u></p> <p>Client Children</p> <p style="text-align: center;">Spouse/Partner Grandparents</p> | <p style="text-align: center;"><u>Criminal</u></p> <p>Client Witness(es)</p> <p style="text-align: center;">Co-Defendant(s) Victim(s)</p> |
| <p style="text-align: center;"><u>Workers' Compensation</u></p> <p>Injured Worker Employer</p> <p style="text-align: center;">Insurer</p> | <p style="text-align: center;"><u>Bankruptcy</u></p> <p>Client Creditors</p> <p style="text-align: center;">Spouse/Partner</p> |
| <p style="text-align: center;"><u>Your Firm</u></p> <p>All Lawyers Spouses or Partners/Parents/Siblings/ In-laws/Children</p> <p style="text-align: center;">Employees</p> | <p style="text-align: center;"><u>Other</u></p> <p>Declined clients and adverse parties, if known Prospective clients Agencies or individuals for whom you provide investigation work, such as Oregon State Bar Professional Responsibility Board</p> |

Include all clients in your conflict system, including pro bono clients and individuals advised through volunteer work at pro bono agencies such as Legal Aid Services of Oregon.

When listing an individual, be sure to include all known names (i.e., former or maiden names). When listing lawyers and employees of the firm, consider including contract attorneys, temporary workers, and freelancers. You can also include the firm's key vendors or service providers in the conflict system.

PRACTICE MANAGEMENT RESOURCES ON THE WEB
Oregon State Bar – Professional Liability Fund – American Bar Association

| RESOURCE | WEB LINK |
|---|---|
| <p>AMERICAN BAR ASSOCIATION</p> <p>Law Practice Management Section</p> <p>Legal Technology Resource Center</p> <p>Periodicals, Web sites, Blogs, RSS Feeds, E-mail Discussion Groups, Researching Technology, etc.</p> <p>Suddenly Solo (Law Practice Today, July 2009)</p> <p>Technology FYIs</p> | <p>http://www.abanet.org/lpm/home.shtml</p> <p>http://www.abanet.org/tech/ltrc/</p> <p>http://www.abanet.org/tech/ltrc/fyidocs/technologyresearchfyi.html</p> <p>http://www.abanet.org/lpm/lpt/home.shtml</p> <p>http://www.abanet.org/tech/ltrc/fyidocs/</p> |
| <p>ASSOCIATES</p> | <p>See Partnership/Of Counsel</p> |
| <p>CALENDARING AND TICKLING</p> <p>A Guide to Setting Up and Running Your Law Office</p> <p>Beware of these Traps in E-Filing and E-Notices</p> <p>Calendar and File Tickling Systems</p> <p>Diary/Tickler Systems</p> <p>Docket Control Checklist</p> <p>Docket Sheet</p> <p>Follow-Up</p> <p>Mail Handling – Paper and Paperless Filing Systems</p> <p>Supplementary Local Rules</p> | <p>www.osbplf.org, then <u>Books from the PLF (Updated in 2009)</u></p> <p>www.osbplf.org, then <u>In Brief</u>, then August 2009 issue</p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Docketing & Calendar</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Docketing & Calendar</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Docketing & Calendar</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Docketing & Calendar</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Docketing & Calendar</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Docketing & Calendar</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Mail Handling</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Docketing & Calendar</u></p> |
| <p>CLIENT AND CASE SCREENING</p> <p>A Guide to Setting Up and Running Your Law Office</p> <p>How to Handle Phone Inquiries from Potential Clients</p> <p>Make the Right Match: What If You Only Represented Clients You Like</p> | <p>www.osbplf.org, then <u>Books from the PLF (Updated in 2009)</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Relations</u></p> <p>https://www.osbar.org/publications/bulletin/08jul/practice.html</p> |
| <p>CLIENT COMMUNICATIONS</p> <p>Administrative Info Brochure</p> <p>A Guide to Setting Up and Running Your Law Office</p> <p>Billing Info Brochure</p> <p>Client Relations Checklist</p> <p>Client Service Questionnaire</p> <p>Disclaimers for E-Mail, Web sites, etc.</p> <p>E-Writing: tips 4 btr comm</p> <p>How You Can Eliminate Constant Telephone Interruptions</p> <p>Marketing with Firm Brochures</p> <p>Notice to Client re Theft of Computer Equipment</p> <p>Receipt (delivery from client)</p> <p>The E-Mail Blizzard</p> <p>Transmittal</p> <p>Using E-Mail in the Office</p> <p>Using Voicemail in the Office</p> | <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Relations</u></p> <p>www.osbplf.org, then <u>Books from the PLF (Updated in 2009)</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Relations</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Relations</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Relations</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Technology</u></p> <p>https://www.osbar.org/publications/bulletin/08may/legalwriter.html</p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Relations</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Relations</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Relations</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Communication</u></p> <p>http://www.osbar.org/publications/bulletin/09apr/practice.html</p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Communication</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Communication</u></p> <p>www.osbplf.org, then <u>Practice Aids and Forms</u>, then <u>Client Communication</u></p> |

PRACTICE MANAGEMENT RESOURCES ON THE WEB
Oregon State Bar – Professional Liability Fund – American Bar Association

| RESOURCE | WEB LINK |
|---|---|
| <p>CLOSING YOUR LAW OFFICE</p> <p>Checklists</p> <p>Law Office List of Contacts</p> <p>Plan Ahead: Are You Prepared for the Unthinkable?</p> <p>Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death</p> <p>Sample Letters to Clients</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Closing Your Law Office</p> <p>www.osbplf.org, then Practice Aids and Forms, then Closing Your Law Office</p> <p>http://www.osbar.org/publications/bulletin/05jul/practice.html</p> <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> <p>www.osbplf.org, then Practice Aids and Forms, then Closing Your Law Office</p> <p>Also see: Selling a Law Practice and Retiring from a Law Practice</p> |
| <p>CONFLICT OF INTEREST SYSTEMS</p> <p>A Guide to Setting Up and Running Your Law Office</p> <p>Conflict Audit</p> <p>Conflict Avoidance – What you need to know about conflict of interest systems</p> <p>Conflict Disclosure and Consent Checklists</p> <p>Conflict Disclosure and Consent Letters</p> <p>Conflict of Interest Systems-Procedures</p> <p>Declined Prospect Information Sheet</p> <p>Disclosure Form ORPC 1 – Lawyer in Business w/ Client</p> <p>Ethics Opinion No. 2005-50 Conflicts – Office Sharers</p> | <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> <p>www.osbplf.org, then Practice Aids and Forms, then Conflicts of Interest</p> <p>https://www.osbar.org/publications/bulletin/01july/myp.htm</p> <p>www.osbplf.org, then Practice Aids and Forms, then Conflicts of Interest</p> <p>www.osbplf.org, then Practice Aids and Forms, then Conflicts of Interest</p> <p>www.osbplf.org, then Practice Aids and Forms, then Conflicts of Interest</p> <p>www.osbplf.org, then Practice Aids and Forms, then Conflicts of Interest</p> <p>www.osbplf.org, then Practice Aids and Forms, then Conflicts of Interest</p> <p>www.osbplf.org, then Practice Aids and Forms, then Conflicts of Interest</p> |
| <p>DEPARTING A FIRM</p> <p>Checklists, sample client letters, ethics opinions, etc.</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Departing a Firm</p> <p>Also see: Staff</p> |
| <p>DISASTER RECOVERY</p> | <p>See File Management, Backing Up and Protecting Data</p> |
| <p>DISENGAGEMENT</p> <p>A Guide to Setting Up and Running Your Law Office</p> <p>Disengagement letters</p> <p>Leave a Paper Trail of Good Client Communications</p> <p>How to Fire a Client: Do's and Don'ts When Ending Representation</p> | <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> <p>www.osbplf.org, then Practice Aids and Forms, then Disengagement Letters</p> <p>www.osbplf.org, then In Brief, then August 2009 issue.</p> <p>https://www.osbar.org/publications/bulletin/07jul/practice.html</p> |
| <p>ENGAGEMENT</p> <p>A Guide to Setting Up and Running Your Law Office</p> <p>Leave a Paper Trail of Good Client Communications</p> | <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> <p>Also see: File Management, Client Intake</p> <p>www.osbplf.org, then In Brief, then August 2009 issue.</p> |
| <p>ETHICS – GENERAL INFORMATION</p> <p>Bar Counsel Article Archive</p> <p>Ethical Oregon Lawyer</p> <p>Ethics Opinions</p> <p>Ethics Questions</p> <p>Oregon Rules of Professional Conduct</p> <p>Oregon Rules, Policies, and Regulations</p> | <p>https://www.osbar.org/ethics/bulletinbarcounsel.html</p> <p>http://www.osbar.org/store/pub/pubcat.asp?action=view&cat=Ethics</p> <p>https://www.osbar.org/ethics/toc.html</p> <p>https://www.osbar.org/ethics</p> <p>https://www.osbar.org/docs/rulesregs/orpc.pdf</p> <p>https://www.osbar.org/rulesregs/toc.html</p> |

PRACTICE MANAGEMENT RESOURCES ON THE WEB
Oregon State Bar – Professional Liability Fund – American Bar Association

| RESOURCE | WEB LINK |
|---|---|
| <p>FEES</p> <p>2008 Hourly Rates Survey 2007 Economic Survey A Guide to Setting Up and Running Your Law Office</p> | <p>https://www.osbar.org/surveys_research/08hourlyratesurvey https://www.osbar.org/docs/resources/07EconSurvey.pdf www.osbplf.org, then Books from the PLF (Updated in 2009)</p> |
| <p>FILE MANAGEMENT</p> <p>General Information</p> <p>A Guide to Setting Up and Running Your Law Office</p> | <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> |
| <p>Backing Up and Protecting Data</p> <p>After Disaster Strikes: A Checklist Application Service Providers Do-It-Yourself Security: Help Keeping Your Data Safe Easy to Use or Easy to Lose? How to Protect Mobile Devices How to Backup Your Computer Identity Theft Protection Resources Managing Practice Interruptions Protect Client Information from Identity Theft Protecting Your Firm</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Disaster Recovery www.osbplf.org, then Practice Aids and Forms, then Technology https://www.osbar.org/publications/bulletin/09febmar/legalonline.html www.osbplf.org, then In Brief, then August 2008 issue www.osbplf.org, then Practice Aids and Forms, then Technology www.osbplf.org, then In Brief, then August 2008 issue www.osbplf.org, then Practice Aids and Forms, then Disaster Recovery www.osbplf.org, then In Brief, then August 2008 issue www.osbplf.org, then Practice Aids and Forms, then Disaster Recovery</p> |
| <p>Client Intake</p> <p>Engagement Letters and Fee Agreements Fee Agreement Compendium New Client Information Sheet New Client Information Sheet with Disclaimer How to Handle Phone Inquiries from Potential Clients How You Can Eliminate Constant Telephone Interruptions</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Engagement Letters http://www.osbar.org/store/pub/pubcat.asp?action=view&cat=Law+Practice+Management www.osbplf.org, then Practice Aids and Forms, then File Management www.osbplf.org, then Practice Aids and Forms, then File Management www.osbplf.org, then Practice Aids and Forms, then Client Relations www.osbplf.org, then Practice Aids and Forms, then Client Relations</p> |
| <p>Declined Clients</p> <p>Declined Client Prospect Information Sheet Leave a Paper Trail of Good Client Communications Nonengagement Letters</p> | <p>www.osbplf.org, then Practice Aids and Forms, then File Management www.osbplf.org, then In Brief, then August 2009 issue. www.osbplf.org, then Practice Aids and Forms, then Nonengagement Letters</p> |
| <p>File Closing and Retention</p> <p>Client Files Revisited Disengagement Letters Document Destruction File Closing Checklist File Retention</p> | <p>www.osbplf.org, then Practice Aids and Forms, then File Management www.osbplf.org, then Practice Aids and Forms, then Disengagement Letters www.osbplf.org, then In Brief, then June 2005 issue www.osbplf.org, then Practice Aids and Forms, then File Management www.osbplf.org, then Practice Aids and Forms, then File Management</p> |
| <p>File Documentation</p> <p>Memo of Conversation Memo of Conversation (I Said/They Said)</p> | <p>www.osbplf.org, then Practice Aids and Forms, then File Management www.osbplf.org, then Practice Aids and Forms, then File Management</p> |

PRACTICE MANAGEMENT RESOURCES ON THE WEB
Oregon State Bar – Professional Liability Fund – American Bar Association

| RESOURCE | WEB LINK |
|---|--|
| <p>Organization of Electronic Files</p> <p>Beware of these Traps in E-Filing and E-Notices Checklist for Imaging Client Files/Disposition of Originals Digital Signatures Is It Time To Go Paper-Less? Going Paperless? Ethical Considerations Mail Handling – Paperless Filing System Managing Client E-mail Our Paperless World Retention of Electronic Records Technology Tips - Using Acrobat 9 in the Law Office</p> | <p>www.osbplf.org, then In Brief, then August 2009 issue www.osbplf.org, then Practice Aids and Forms, then Technology www.osbplf.org, then Practice Aids and Forms, then Technology www.osbplf.org, then In Brief, then February 2009 issue http://www.osbar.org/publications/bulletin/09apr/barcounsel.html www.osbplf.org, then Practice Aids and Forms, then Mail Handling www.osbplf.org, then Practice Aids and Forms, then Technology www.osbplf.org, then Practice Aids and Forms, then Technology www.osbplf.org, then Practice Aids and Forms, then Technology www.osbplf.org, then In Brief, then August 2008 issue</p> |
| <p>Organization of Paper Files</p> <p>Mail Handling – Paper Filing System Setting Up an Effective Filing System</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Mail Handling www.osbplf.org, then Practice Aids and Forms, then File Management</p> |
| <p>Providing Files to Clients</p> <p>Client Files Revisited Going Paperless? Ethical Considerations OSB Formal Ethics Opinion 2005-125</p> | <p>www.osbplf.org, then Practice Aids and Forms, then File Management http://www.osbar.org/publications/bulletin/09apr/barcounsel.html www.osbplf.org, then Practice Aids and Forms, then File Management</p> |
| <p>FINANCIAL MANAGEMENT</p> <p>A Guide to Setting Up and Running Your Law Office Billing and Time Slips Cash Flow Worksheet (6 Month and 12 Month) Daily Time Sheets General Ledger Monthly Budget Portland Multnomah Business Tax Start-Up Budget</p> | <p>www.osbplf.org, then Books from the PLF (Updated in 2009) www.osbplf.org, then Practice Aids and Forms, then Financial Management www.osbplf.org, then Practice Aids and Forms, then Financial Management www.osbplf.org, then Practice Aids and Forms, then Financial Management www.osbplf.org, then Practice Aids and Forms, then Financial Management www.osbplf.org, then Practice Aids and Forms, then Financial Management www.osbplf.org, then Practice Aids and Forms, then Financial Management www.osbplf.org, then Practice Aids and Forms, then Financial Management</p> |
| <p>LAW LIBRARY/LEGAL RESEARCH</p> <p>Books and Legal Research Tools</p> <p>BarBooks Online (OSB CLE Publications) Fastcase In Brief (PLF Newsletter) Online Resources for Oregon Lawyers (main portal) Oregon Statutory Time Limitations Handbook State of Oregon Law Library Willamette Law Online</p> | <p>http://www.osbar.org/legalpubs/BarBooksTeaser.html www.osbar.org www.osbplf.org, then In Brief https://www.osbar.org/resources/eresources.html www.osbplf.org, then Books from the PLF http://www.oregon.gov/SOLL/ http://www.willamette.edu/wucl/journals/wlo/</p> |

PRACTICE MANAGEMENT RESOURCES ON THE WEB
Oregon State Bar – Professional Liability Fund – American Bar Association

| RESOURCE | WEB LINK |
|--|---|
| Courts (Oregon) Appellate Decisions Circuit Court Websites & Calendars Court Forms Court Programs | http://www.publications.ojd.state.or.us/ http://www.ojd.state.or.us/courts/circuit/index.htm http://www.ojd.state.or.us/forms/index.htm http://www.ojd.state.or.us/programs/index.htm |
| Forms BarBooks Online (OSB CLE Publications) PLF Forms | http://www.osbar.org/legalpubs/BarBooksTeaser.html www.osbplf.org , then Practice Aids and Forms |
| Law Library Values Law Library Values | http://www.osbar.org/_docs/resources/libraryvalues09.pdf |
| Rules Oregon Administrative Rules Oregon Rules of Appellate Procedure Oregon Rules of Civil Procedure Supplementary Local Rules Tax Court Rules Uniform Trial Court Rules | http://www.ojd.state.or.us/Web/OJDPublications.nsf/OAR?OpenView&count=1000 http://www.ojd.state.or.us/Web/OJDPublications.nsf/ORAP?OpenView&count=1000 http://www.ojd.state.or.us/Web/OJDPublications.nsf/ORCP?OpenView&count=1000 Practice Aids and Forms , then Docketing & Calendaring http://www.ojd.state.or.us/Web/OJDPublications.nsf/TaxR?OpenView&count=1000 http://www.ojd.state.or.us/programs/utcr/ |
| Statutes Legislative History Oregon Statutes Statutes – Miscellaneous links | http://arcweb.sos.state.or.us/banners/legis.htm http://www.leg.state.or.us/ors/ http://www.osbar.org/resources/eresources.html |
| MOVING A LAW OFFICE Moving a Law Office Checklist | www.osbplf.org , then Practice Aids and Forms , then Moving a Law Office |
| NONENGAGEMENT A Guide to Setting Up and Running Your Law Office Leave a Paper Trail of Good Client Communications Sample nonengagement letters | www.osbplf.org , then Books from the PLF (Updated in 2009) www.osbplf.org , then In Brief , then August 2009 issue. www.osbplf.org , then Practice Aids and Forms , then Nonengagement Letters Also see: File Management , Declined Clients |
| OFFICE MANUALS A Guide to Setting Up and Running Your Law Office Office Manual Index and Policy Manual Index Procedure Manual Using Form Books | www.osbplf.org , then Books from the PLF (Updated in 2009) www.osbplf.org , then Practice Aids and Forms , then Office Manuals www.osbplf.org , then Practice Aids and Forms , then Office Manuals www.osbplf.org , then Practice Aids and Forms , then Office Manuals |
| OFFICE SHARING Checklist for Creating a Work-For-Rent Agreement Office Sharing Ethics Opinions Office Sharing Guidelines | www.osbplf.org , then Practice Aids and Forms , then Office Sharing www.osbplf.org , then Practice Aids and Forms , then Office Sharing www.osbplf.org , then Practice Aids and Forms , then Office Sharing |

PRACTICE MANAGEMENT RESOURCES ON THE WEB
Oregon State Bar – Professional Liability Fund – American Bar Association

| RESOURCE | WEB LINK |
|---|--|
| <p>OFFICE SYSTEMS AUDIT</p> <p>Office System Audit</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Office System Audit</p> |
| <p>OPENING A LAW OFFICE</p> <p>A Guide to Setting Up and Running Your Law Office</p> <p>Checklist for Opening a Law Office</p> <p>Choice of Entity</p> <p>Ethics Opinion 2005-49 – Disclosure of Entity Status</p> <p>Law Office Start-Up: Law Office on a Shoestring</p> <p>Lawyers as PCs, LLCs, and LLPs</p> <p>Opening an Office (article)</p> <p>Virtual Law Office</p> | <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> <p>www.osbplf.org, then Practice Aids and Forms, then Opening a Law Office</p> <p>www.osbplf.org, then Practice Aids and Forms, then Entity Formation</p> <p>www.osbplf.org, then Practice Aids and Forms, then Entity Formation</p> <p>https://www.osbar.org/publications/bulletin/08oct/practice.html</p> <p>www.osbplf.org, then Practice Aids and Forms, then Entity Formation</p> <p>www.osbplf.org, then Practice Aids and Forms, then Opening a Law Office</p> <p>www.osbplf.org, then Practice Aids and Forms, then Opening a Law Office</p> <p>Also see: Office Sharing and Partnership/Of Counsel</p> |
| <p>OSB SECTIONS</p> <p>Law Practice Management</p> <p>Solo and Small Firm Practitioners</p> <p>Sections (General)</p> | <p>http://osblpms.homestead.com/</p> <p>http://www.osbar.org/sections/ssfp.html</p> <p>http://www.osbar.org/sections</p> |
| <p>PARTNERSHIP/OF COUNSEL</p> <p>Associate Agreement Checklist</p> <p>Ethics Opinions</p> <p>Of Counsel Relationships</p> <p>Partnership Agreement Checklist</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Partnership/Of Counsel</p> <p>www.osbplf.org, then Practice Aids and Forms, then Partnership/Of Counsel</p> <p>www.osbplf.org, then Practice Aids and Forms, then Partnership/Of Counsel</p> <p>www.osbplf.org, then Practice Aids and Forms, then Partnership/Of Counsel</p> |
| <p>PLF BOOKS</p> <p>A Guide to Setting Up and Running Your Law Office</p> <p>A Guide to Setting Up and Using Your Lawyer Trust Account</p> <p>Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death</p> | <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> |
| <p>PLF COVERAGE</p> <p>Billing and Exemption Guide</p> <p>Disclosure of Potential Malpractice</p> <p>Excess Coverage</p> <p>Primary Coverage</p> | <p>www.osbplf.org, then Billing and Exemption Guide (under Primary Coverage)</p> <p>www.osbplf.org, then Practice Aids and Forms, then Disclosure of Potential Malpractice</p> <p>www.osbplf.org, then Excess Coverage</p> <p>www.osbplf.org. See Billing and Exemption Guide, Coverage Plan, Policies and Guidelines, and Request an Exemption under Primary Coverage heading</p> |

PRACTICE MANAGEMENT RESOURCES ON THE WEB
Oregon State Bar – Professional Liability Fund – American Bar Association

| RESOURCE | WEB LINK |
|--|--|
| <p>PRACTICE-SPECIFIC MATERIALS</p> <p>BarBooks Online (OSB CLE Publications)</p> <p>CLEs – Multnomah Bar Association</p> <p>CLEs – Oregon State Bar</p> <p>CLEs – Oregon Law Institute</p> <p>CLEs – Professional Liability Fund*</p> <p>*There are many CLE providers. These are just a few.</p> <p>PLF Practice Aids and Forms</p> <p>Adoption</p> <p>Bankruptcy</p> <p>Business</p> <p>Conservatorships</p> <p>Construction Liens</p> <p>Contract Lawyering</p> <p>Criminal</p> <p>Domestic Relations</p> <p>Guardianships</p> <p>Immigration</p> <p>Litigation</p> <p>Probate and Estate Planning</p> <p>Real Property</p> <p>Workers Compensation</p> | <p>http://www.osbar.org/legalpubs/BarBooksTeaser.html</p> <p>https://www.mbabar.org/programlist.php</p> <p>http://www.osbarcle.org/</p> <p>http://www.lclark.edu/</p> <p>www.osbplf.org, then –CLE Online, Programs on Audio, Programs on Video, or Upcoming Seminars</p> <p>www.osbplf.org, then Practice Aids and Forms</p> <p>Also see: Law Library/Legal Research</p> |
| <p>PRODUCTS & SERVICES</p> <p>ABA Web Store Discount</p> <p>Discount on WordPerfect Office X4</p> <p>2009 Oregon State Bar Products & Services</p> | <p>www.osbplf.org, then ABA Products</p> <p>www.osbplf.org, then News</p> <p>https://www.osbar.org/adirectory/directoc.html</p> |
| <p>PROTECTING YOUR CLIENTS</p> <p>Law Office List of Contacts</p> <p>Sample letters, agreements, and checklists</p> <p>Plan Ahead: Are You Prepared for the Unthinkable?</p> <p>Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Closing Your Law Office</p> <p>www.osbplf.org, then Practice Aids and Forms, then Closing Your Law Office</p> <p>http://www.osbar.org/publications/bulletin/05jul/practice.html</p> <p>www.osbplf.org, then Books from the PLF (Updated in 2009)</p> |
| <p>RETIRING FROM LAW PRACTICE</p> <p>Checklist</p> <p>Resources</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Retiring from Law Practice</p> <p>www.osbplf.org, then Practice Aids and Forms, then Retiring from Law Practice</p> |
| <p>SELLING A LAW PRACTICE</p> <p>Checklist</p> <p>Resources</p> | <p>www.osbplf.org, then Practice Aids and Forms, then Selling A Law Practice</p> <p>www.osbplf.org, then Practice Aids and Forms, then Selling A Law Practice</p> |

PRACTICE MANAGEMENT RESOURCES ON THE WEB
Oregon State Bar – Professional Liability Fund – American Bar Association

| RESOURCE | WEB LINK |
|--|---|
| STAFF | |
| ABA Model Guidelines for Utilization of Paralegals | www.osbplf.org , then Practice Aids and Forms , then Staff |
| Appointments | www.osbplf.org , then Practice Aids and Forms , then Staff |
| Chart of Professional Organizations for Staff | www.osbplf.org , then Practice Aids and Forms , then Staff |
| Checklist for Departing Staff | www.osbplf.org , then Practice Aids and Forms , then Staff |
| Confidentiality in the Law Office (w/ sample agreements) | www.osbplf.org , then Practice Aids and Forms , then Staff |
| Delegation Memo | www.osbplf.org , then Practice Aids and Forms , then Staff |
| Ethics for Legal Staff | www.osbplf.org , then Practice Aids and Forms , then Staff |
| Finding Della | www.osbplf.org , then Practice Aids and Forms , then Staff |
| New Secretary Checklist | www.osbplf.org , then Practice Aids and Forms , then Staff |
| Reception Article and Reception Duties | www.osbplf.org , then Practice Aids and Forms , then Staff |
| TECHNOLOGY | |
| An Accelerating Trend: Case Law Just Wants to be Free | https://www.osbar.org/publications/bulletin/08may/legalonline.html |
| A Very Good Price: 10 Places to Get Free Cases | https://www.osbar.org/publications/bulletin/09jul/legalonline.html |
| Beware of these Traps in E-Filing and E-Notices | www.osbplf.org , then In Brief , then August 2009 issue |
| Choices: Law Firm Billing and Accounting Software | https://www.osbar.org/publications/bulletin/08dec/practice.html |
| Cyber Solutions – Practice management tips for busy lawyers | https://www.osbar.org/publications/bulletin/02augsep/managing.html |
| Debuts of Note: A roundup of new legal sites | https://www.osbar.org/publications/bulletin/08dec/legalonline.html |
| Fingerprints and Clusters: New Legal Search Tool Has Broad Potential | https://www.osbar.org/publications/bulletin/08apr/legalonline.html |
| First Look: Martindale-Hubbell Connected | https://www.osbar.org/publications/bulletin/08oct/legalonline.html |
| In Search of Symbiosis: Networking for Lawyers, Part II | https://www.osbar.org/publications/bulletin/08augsep/legalonline.html |
| Listen Up: 10 Essential Podcasts for Lawyers | https://www.osbar.org/publications/bulletin/08nov/legalonline.html |
| Metadata – Danger or delight | https://www.osbar.org/publications/bulletin/06may/practice.html |
| Metadata: Guarding Against the Disclosure of Embedded Information | http://www.osbar.org/publications/bulletin/07apr/barcounsel.html |
| Resources for Mac Lawyers | www.osbplf.org , then Practice Aids and Forms , then Technology |
| Social Networking Sites for Lawyers: Part I | https://www.osbar.org/publications/bulletin/08jul/legalonline.html |
| Super-Powered Websites | https://www.osbar.org/publications/bulletin/08jun/legalonline.html |
| Three New Sites Worth Perusing | https://www.osbar.org/publications/bulletin/05may/practice.html |
| The Right Tools – Good software choices can lead to smoother operation | https://www.osbar.org/publications/bulletin/05may/practice.html |
| Tips from the ABA TECHSHOW | www.osbplf.org , then In Brief , then August 2009 issue. |
| Tips, Tools and Traps– Better productivity through technology | https://www.osbar.org/publications/bulletin/06apr/practice.html |
| Tips, Traps, and Resources | www.osbplf.org , then In Brief (a recurring column which often contains technology tips) |
| Tweet 16: 16 ways lawyers can use Twitter | https://www.osbar.org/publications/bulletin/09jan/legalonline.html |
| Top 10 Top 60: The Most Notable Legal Sites of 2007 | https://www.osbar.org/publications/bulletin/08febmar/legalonline.html |
| Twenty Tools to Make Twitter Sing | https://www.osbar.org/publications/bulletin/09may/legalonline.html |
| Web Sites from the ABA TECHSHOW | www.osbplf.org , then In Brief , then August 2009 issue. |
| What's New on the Web?: A Roundup | https://www.osbar.org/publications/bulletin/08jan/legalonline.html |

PRACTICE MANAGEMENT RESOURCES ON THE WEB
Oregon State Bar – Professional Liability Fund – American Bar Association

| RESOURCE | WEB LINK |
|---|--|
| TECHNOLOGY | Also see: File Management, Organization of Electronic Files and File Management, Backing Up and Protecting Data |
| TIME MANAGEMENT A Guide to Setting Up and Running Your Law Office Reducing the Pressure, PLF CLE | www.osbplf.org , then <u>Books from the PLF</u> (Updated in 2009) www.osbplf.org , then <u>Programs on Audio</u> or <u>Programs on Video</u> |
| TRUST ACCOUNTING 25 Ways to Protect Your Firm From Embezzlement Accepting Credit Cards A Guide to Setting Up and Using Your Lawyer Trust Account Check Scams Target Lawyers Client Ledger Card and Trust Journal Ethics Opinion 2005-48 Unclaimed Funds Ethics Opinion 2005-145 Trust Account Cushions Ethics Opinion 2005-149 Fee Disputes Ethics Opinion 2005-151 Fixed Fees Ethics Opinion 2005-172 Credit Cards Frequently Asked Trust Account Questions Identity Theft Protection Resources IOLTA Accounts Lawyers Beware: Avoiding the Scams Notice of Enrollment to OLF re IOLTA Account Notice to Clients re Theft Oregon Rules of Professional Conduct Protect Client Information from Identity Theft Rules for Washington Practitioners SO YOU THINK... Your IOLTA Account is Safe from Identity Theft, right? Trust Accounting Trust Account Reconciliation Trust Account Lessons: Cautionary Notes Trust Accounts and the FDIC Waiting for Go Dough | www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Trust Accounting</u> www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Trust Accounting</u> www.osbplf.org , then <u>Books from the PLF</u> (Updated in 2009) www.osbplf.org , then <u>In Brief</u> , then November 2008 Issue www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Trust Accounting</u> http://www.osbar.org/ethics/toc.html http://www.osbar.org/ethics/toc.html http://www.osbar.org/ethics/toc.html http://www.osbar.org/ethics/toc.html http://www.osbar.org/ethics/toc.html www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Trust Accounting</u> www.osbplf.org , then <u>In Brief</u> , then August 2008 Issue www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Trust Accounting</u> https://www.osbar.org/publications/bulletin/08nov/tips.html www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Trust Accounting</u> www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Client Relations</u> http://www.osbar.org/_docs/rulesregs/orpc.pdf www.osbplf.org , then <u>In Brief</u> , then August 2008 Issue www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Trust Accounting</u> http://www.osbar.org/publications/bulletin/05dec/barcounsel.html www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Trust Accounting</u> www.osbplf.org , then <u>Practice Aids and Forms</u> , then <u>Trust Accounting</u> http://www.osbar.org/publications/bulletin/08oct/barcounsel.html http://www.osbar.org/publications/bulletin/08oct/barcounsel.html http://www.osbar.org/publications/bulletin/06jun/barcounsel.html |

Compiled by Beverly Michaelis
PLF Practice Management Advisor



Follow me on
<http://twitter.com/OreLawPracMgmt>

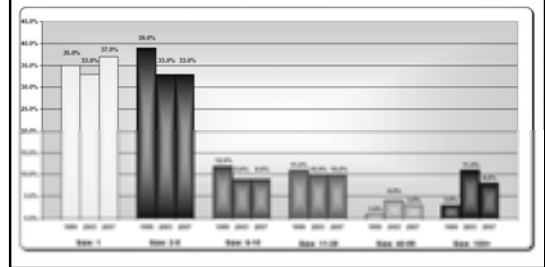
Solo By Choice

How to Manage Files, Deadlines, and Conflicts



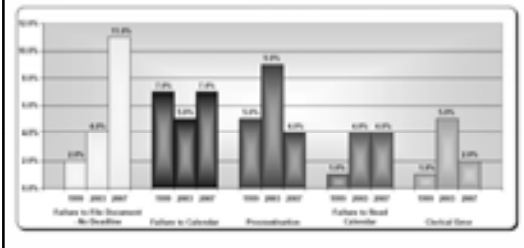
Beverly Michaelis, J.D.
Practice Management Advisor

Claims by Firm Size



ABA Profile of Legal Malpractice Claims 2004-2007

Claims Caused by Administrative Errors



ABA Profile of Legal Malpractice Claims 2004-2007

What are the Odds?

1 in 6



Common Mistakes

1. Lost or Misplaced Files
2. Advice Not Documented
3. Missed Deadlines
4. Missed Court Notices
5. Undetected Conflicts



Avoid Claims by Effectively Managing

- ✓ Case Files
- ✓ Deadlines
- ✓ Conflicts

How to Manage Case Files



Organize Paper



Form Good Habits

1. Indexed?
2. Secured?
3. Organized?
4. Stored?

A sample form titled "TRANSMITTAL MEMO" with fields for "TO", "DATE", "FROM", "SUBJECT", and "COMMENTS". The form also includes contact information for "ANY FIRM PC" and checkboxes for "PRINT" and "E-MAIL".A sample form titled "MEMO OF CONVERSATION" with fields for "CLIENT NAME/MATTER", "PHONE CALL TO/FROM", "DATE", "TIME", and "RE:". The form has a large greyed-out area for notes.

Be a Filer, Not a Piler

"Friends Don't Let Friends Print E-Mail."



Organize Digital Files



Use Technology

- Document Management Software
- Case Management Software
- Desktop Search Engines



Last, But Not Least ...



"Clever is the Pessimist,
for She Makes Backups."

How to Manage Deadlines



Enter Dates Immediately and Automatically



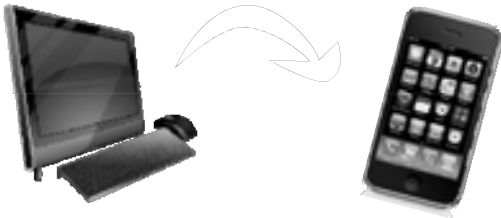
Allow Enough Lead Time



Use Follow-Up Dates

| Client Tasks | | |
|------------------------------|----------------|---|
| | Due Date | Subject |
| Click here to add a new Task | | |
| Normal | Mon 11/9/2009 | Follow-up on Service in Smith case |
| Normal | Tue 11/10/2009 | Answer/appearance filed yet by defendant in Hanson? |
| Normal | Tue 11/10/2009 | Did Jones sign and return fee agreement? |
| Normal | Tue 11/10/2009 | Heard back yet from Taylor re draft of will? |

Synchronize Each Day



Avoid e-Court Pitfalls

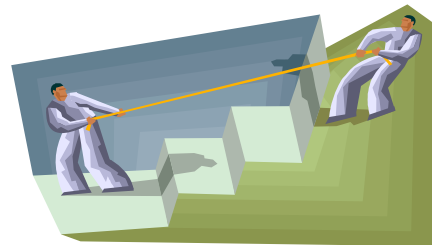
- Filing the Correct Document?
- Creating Rules to Forward e-Notices?
- Training Staff?
- White-listing Court Domains?



Backup Your Calendar with a Tickler System

| Client Tasks | | |
|------------------------------|---------------|-------------------|
| | Due Date | Subject |
| Click here to add a new Task | | |
| | Tue 8/4/2009 | Review Smith File |
| | Thu 8/27/2009 | Review Tyler File |
| | Tue 9/1/2009 | Review Jones File |

How to Manage Conflicts



Who Should I Track?

1. Clients and Adverse Parties
2. Related Parties
3. Declined Clients
4. Prospects
5. Pro Bono Clients

What's in a Name?

- SSN or TIN
- DOB
- 123 ABC Street
- FKA



When Should I Run a Conflicts Check?

1. First Contact
2. File Opening
3. New Party Enters Case



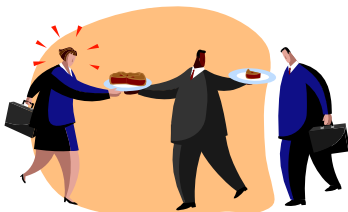
Use a Database

- Efficient
- Protected
- Accessible
- Portable



Not Alone?

1. Sharing Office Space?
2. Of Counsel?



Practice Tips

- ✓ Document the File
- ✓ Always Specify Relationships



Conclusion

1. Follow the Tips
2. Use Resources
3. Help Available in Many Areas,
including Trust Accounting



www.osbplf.org

Books – Forms – CLE - Consultations



Beverly Michaelis

Practice Management Advisor

beverlym@osbplf.org

503-639-6911 or 800-452-1639



<http://twitter.com/OreLawPractMgmt>



<http://oregonlawpracticemanagement.wordpress.com/>

Carolyn Elefant's PowerPoints

TRUE NOT!

**WHAT YOU DON'T
KNOW ABOUT SOLO
PRACTICE CAN HURT**

*How you miss out on amazing
opportunities when you overlook this
career path.*



Myth: Starting a law firm is a dead-end path...career suicide!



**A court of last resort – not a bad place
to be.**



Myth: I wasn't good enough to find a job, so I'm certainly not qualified to run a practice.

Reality: When you pass the bar, you're a lawyer just like any other lawyer. No reason you can't start a firm.



Is this what you fear?



Message: Law Isn't Rocket Science! And most experienced lawyers need to master new issues all the time.



Myth: Starting a firm is simply not financially viable with \$120,000 in student



\$500-\$1000 (or repurpose what you have)



\$1000/yr



FREE!

Reality: You don't need that much money to get a firm up and running.



Myth: My law firm will seem fly by night unless I have Class A office space, an



Reality: Clients value convenience and don't want to pay for fancy overhead. And



Myth: Solo practice means I'm stuck with a volume assembly line practice



Reality: Complex issues like constitutional law, preemption come up even in crimlaw.



Myth: Solo practice is just too isolating for gregarious people.



Reality: Seek out opportunities to work with others - AND you get to pick who you



[Partial] Myth: Solo practice means I have to juggle tech and admin all alone and I



Reality: With Internet, low cost tech and admin solutions are available.

Now that we've busted these myths, let's explore how you can open a law firm.

Setting Up A Practice



Topics:

Bootstrapping the 21st century law practice

- Where to locate
- Law firm structure
- Bootstrapping the 21st century law practice:
 - Tech to run the practice
 - Legal research tools

Warning: Entering High Tech Zone!
Traditional Lawyers, Do Not Fear!

Technology is not an end in itself but a tool to make us better lawyers & expand access to law.



Bootstrapping: The shoestrapping goes modern in the 21st century.

Why boot strap and not shoestrapping?

- VC has dried up and businesses have no choice but to grow from ground up.
- Technology reduces costs, allows for companies to grow without large investment.
- Different values - more desire for work life balance, so more tolerance for unconventional work situations like work from home or part time
- Law practice not immune to these trends

Bootstrapping principles:

- Minimize overhead, costs and debt if possible
- Good is good enough for getting started
- Grow into your needs
- Maximize flexibility through mobility
- Embrace free

Location, Location, Location

- Home Office
- Virtual Office (P/T Space)
- Leased Space
- Work for Space



| | Home Office | Virtual Office | Leased Space | Work for Space |
|---------|--|---|--|---|
| Pros | Free & convenient | professional address; inexpensive | work with others, place to meet clients | free, possible mentor |
| Cons | space constraints, distractions; hard to meet clients or hire onsite help. | can get costly w/frequent use; need to plan ahead to meet; not available in all locations | can be costly | work but don't earn \$ |
| General | Has become much more common; least overhead starting out. | Regarded as best compromise solution at start. | In down economy, leased space may be more viable | Use due diligence to evaluate, limit duration of arrangement. |



Corporate Structure

- Types of structures:
 - Sole proprietorship
 - LLC (limited liability company)
 - Corporation
 - Partnership
- Considerations
 - Income tax
 - Number of people in firm
 - State or malpractice insurance rules
 - No structure will shield lawyers from professional liability



Setting Up the office

- Making Tech Choices:
 - What can you repurpose?
 - How mobile do you want to be?
 - How much do you want to spend?
 - What are your tech skills?
 - What kind of security will your practice require?



21st century technology: Welcome to my office



Features of a 21st Century office:

- Laptop
- BackUp
- Scanner
- Smart Phone (iphone)
- MiFi Card
- Flip video



Other apps:

- Back up
 - Mozy
 - Document storage/client portal (Zoho, Box, Clio)
- Word processing
 - Word for Mac, Open office
 - Adobe Pro (for e-filing, document management)
- e-fax



Practice Management Tools:

- What are they?
 - Handle practice back-end, from conflicts check, calendar, invoices, etc...
- What are the options:
 - Desk based
 - Cloud based



The cloud wins...not even close:

- Cheaper (pay as you go)
- Less tech support required for set up and install
- Recent security advancements means data is safe
- Functions as back up for docs
- Most important: most cloud based systems have client portal. Imperative in 21st century practice.



Practice Management in the Cloud:



Lower cost services, what are drawbacks?



Free or very, very cheap tools for your practice





Free Webinar Service



Free Client Survey Forms



Free Document Storage



Free E-Mail Newsletters



Free Design a Logo



Free Word Processing Software



Malpractice Insurance

- Mandatory in Oregon
- In other bars:
 - Get it for protection against grievance
 - Not as costly as you'd think starting out

Legal research:

- New Free Options!!!
 - Google just released Google Legal Scholar
 - Free caselaw search
- Other legal research tools:
 - Jenkins law library (\$150/year w/Hein Online, Fastcase and 20 minutes LEXIS daily)
 - Bar options?
 - Versuslaw, Fastcase, Loislaw
 - Single option LEXIS and Westlaw libraries
 - Westlaw/LEXIS kiosks at law library

Business Cards

- What to include?
 - Name
 - Jurisdictions licensed
 - Website
 - Social media contacts
 - Tag line
- Sources:
 - Overnight prints
 - Vista Prints
 - Local printer



What's in a name?

- Selecting law firm name
 - Your name
 - Trade names:
 - Ethical? Do you want one?
 - Don't select generic trade name

Selecting Domain name

- Just as critical as firm name
- Buy at least 3-4:
 - Your personal name
 - Specialization name (or names)
 - Geographic name
 - Trade name



Final Words:

- Don't get caught in analysis paralysis
- Nothing is set in stone, so pick what is best at the time
- Match your tools to your goals
- Don't shoestring, bootstrap!
- Embrace technology that helps you serve clients



Marketing, Marketing, Marketing!

Some Basics

- Portfolio approach
- A fit for you and your practice
- Consistency
- ROI (return on investment)
- Multipurpose
- Special: The Role of Social Media

Portfolio Approach

- Starting out, experiment with different techniques
 - PtoP (person to person)
 - Online tools (Website/Blog)
 - Directories and lists
 - Social networking

Fit for You and Your Practice

- Where do you find your clients?
 - Will you find corporate clients through Yellow Pages?
 - Will you find consumer clients on Martindale Hubbell?
 - Your means must fit your "end" (the client)
- What makes you comfortable?
 - Great writer? Blog or publish articles
 - Outgoing? Network events or start a group.
 - Do some of each - but focus must be on your comfort level.

Consistency

- Common problem: get busy & forget marketing
- Figure out ways to integrate it:
 - Weekly "marketing morning"
 - 1 hr./day 3 hrs week to blog, do article, answer Qs at avvo or lawguru
 - Batches- several blog posts or articles at once
 - Plan ahead - schedule series of calls, events, etc..beginning of each month & don't back out!

ROI

- Return on investment - the value you get from \$s put in
- **KEY LESSON:** not enough for a marketing tool to earn your \$s back. Should be returning at least 5 to 20 times investment

ROI Example

- Online listing- \$2500/yr
 - Brings 1 \$5000 matter, minimal SEO (pays for itself?)
- Compare
 - 5 \$100 coffee & bagel breakfasts for local lawyers
 - \$1500 for high end, professional blog design
 - \$500 for 15 hrs of VA time to compile contact data bases to announce blog and follow up for breakfasts
 - Which will yield better return?

Multipurpose

- Do it once, use it many times
- Social media supports multi-purposing
 - E.g: one law review article
 - Press release re: publication
 - Calls to colleagues "can I send it to you?"
 - Reprint snippets online at blogs or website
 - Download from your website
 - Upload to JD Supra, DocStoc (for more SEO)
 - Set out in office (if you have one)
 - Teleconferences or webinars re: article update
 - Speak on article topic at events

Marketing Tools - List

- P-P
 - Network events
 - 1on1 meetings
- Writing
 - Local papers, law review, trade press, ebook
- Speaking
 - Bar events, trade show, meet-ups
- Associations
 - Join/organize bar group or start your own
- Media
 - HARO, Press releases
- Online
 - Websites, blogs
- Social Networking
 - LinkedIn, Facebook, Twitter,
- Directories
 - Avvo, Justia/LII, LawGuru and for-fee
- Doc Archiving Sites
 - Docstoc, JDSupra

Marketing Plan

- Ask these questions:
 - Does tool help me reach potential referral sources? (other lawyers)
 - Does tool help me reach ultimate consumer (client?)
 - Does tool get me visibility/exposure/SEO?
 - How comfortable am I with the particular tool

Person to Person

- Networking events
 - Follow up is important
 - You can attend - or host yourself
- One on one meetings
 - Purely informational
 - "explore mutually beneficial areas"
 - Make them convenient- coffee or visit at the office
 - Can email initially, but follow up by phone
 - Don't limit meetups to lawyers - but also other biz providers

Writing

- E book
- Newsletter- send out firm newsletter to current clients prospects
- Interviews
 - Best articles - interview someone (way to reach out; multi-purpose)
- Articles
 - Local paper column, trade press, Moms magazines, etc...

Speaking

- Bar Events
 - Do they help you meet your target audience?
- Trade Shows
 - Very competitive - start small/local
- Meet Ups
 - Go to Eventful.com and meetup.com - many groups may want speakers
- Teleseminar/Webinar
 - Hold your own - tape teleseminar or webinar and reuse

Associations

- Joining an existing association
 - Local committees, national, trade or specialty bars
- Start your own
 - Lunch group, referral group w/peers. Very successful networking for lawyers (www.attorneyrt.com)

Media

- Issue press releases (accomplishments, articles etc...)
- HARO
 - Help a reporter out site- respond to Qs

Online Tools

- Website
 - Offer ebook
 - Offer FAQ
 - Check disclaimer requirements
 - Website v. blog?

Social Media

- What is social media?
 - A type of Web 2.0 application that “enhances creativity, information sharing and collaboration among users
- Characteristics
 - Usually free
 - Extremely high site traffic
 - Opportunities for interaction via comments, ratings, photo exchange,

Why Social Media?


- Gaining traction with general population now that “Facebook generation” is entering the marketplace
- Tools are inexpensive, user friendly and professional looking
- Can carry out marketing goals:
 - Enhance SEO
 - Help repurpose content
 - “Brand” your law firm
 - Build relationships



LegallyMinded
What: ABA's Social Networking Site
Social Media Category: Community
Target Audience: All lawyers; not limited to just ABA
Start: December 2008
of Users: 2000 as of July 2009
Annual Traffic: N/A
Cost: ABA membership not required

Getting Started: Create a profile with photo and biographical information

Unique Features:
 • Ability to network with other lawyers
 • High level, well-moderated and ability to create blogs inside site



LinkedIn
What: LinkedIn is an interconnected network of experienced professionals from around the world.
Social Media Category: Directory
Target Audience: All professionals, from those employed in industry, government or on their own with interest in networking to find business or employment.
Start: Launched May 2003
Users: 45 Million Members
Annual Traffic: 7.7 million per month as of January 2009
Cost: Free, with paid upgrade available


Getting Started: Create a profile with photo, bio, skills, to enter status of employment, relative to your membership. Gradual steps that allow you to form your network. They, like LinkedIn, do "test" 30 day trial.

Unique Features:
 • Member & content based that allows users to expand connections from others.
 • Content: Many photos can be added to profile and posts with the profile page. All users are able to connect with others and share information. Some users can be added to groups and can be added to groups. Some users can be added to groups and can be added to groups.

Specialties:
 • Create a profile and create a profile with a photo and bio. You can also create a profile with a photo and bio. You can also create a profile with a photo and bio.

Price: LinkedIn is free to use. There is a paid upgrade available for a higher level of service. There is a paid upgrade available for a higher level of service.

Cost: Free, with paid upgrade available




Martindale-Hubbell Connected
What: A micro blogging tool for sharing information with followers in 140 characters or less.
Social Media Category: Community
Target Audience: For lawyers and corporate counsel.
Start: Launched March 2009
Users: 1 million
Annual Traffic: N/A
Cost: Basic profile free; expanded profiles and search require fee subscription to other providers (e.g., integration of LEXIS, paid Martindale-Hubbell listings)

Getting Started: Register and create basic profile

Unique Features:
 • Content is only visible to people you follow
 • Can be used to share information on LinkedIn and other social media sites
 • Can be used to share information on LinkedIn and other social media sites

Specialties:
 • MySpace-like interface with a focus on legal topics
 • Easy to use interface with a focus on legal topics
 • Easy to use interface with a focus on legal topics




Ning
What: A site for creating online communities
Social Media Category: Community
Target Audience: Set up a community for any of your groups - trade association, bar group or outside interests.
Start: Launched October 2005
Users: 22 million total registered users as of April 2009
Annual Traffic: 2.7 billion page views a month (March '09)
Cost: Free, with paid upgrades available

Getting Started: Create a blog community for your business

Unique Features:
 • Create a blog community for your business
 • Create a blog community for your business
 • Create a blog community for your business

Specialties:
 • Create a blog community for your business
 • Create a blog community for your business
 • Create a blog community for your business




SlideShare
What: Largest online presentation sharing community. Users can upload and search for presentations by different topics, comment and categorize slideshows.
Social Media Category: Archiving site
Target Audience: Increasing focus on business users; popular in tech community.
Start: Launched 2006
Users: 1.5 million registered users
Annual Traffic: 24 million unique visitors monthly
Cost: Free

Getting Started: Create an account and begin uploading slideshows content

Unique Features:
 • Upload slideshows, like your own blog or website
 • Share slideshows with your followers. There are several ways to share slideshows.
 • Upload slideshows, like your own blog or website

Specialties:
 • Upload slideshows, like your own blog or website
 • Upload slideshows, like your own blog or website
 • Upload slideshows, like your own blog or website



Twitter
What: A micro blogging tool for sharing information with followers in 140 characters or less.
Social Media Category: Communications
Target Audience: Slightly older professionals (little traction in 24 y.o. and under demographic), many in high tech, media and public relations. Gaining traction with lawyers.
Start: Launched March 2006
Users: estimated 18 million by the end of 2009
Annual Traffic: 21 million monthly as of June 2009
Cost: Free, with paid upgrade available

Getting Started: Create a profile with photo and bio, create a bio, create a bio

Unique Features:
 • Create a profile with photo and bio, create a bio, create a bio
 • Create a profile with photo and bio, create a bio, create a bio
 • Create a profile with photo and bio, create a bio, create a bio

Specialties:
 • Create a profile with photo and bio, create a bio, create a bio
 • Create a profile with photo and bio, create a bio, create a bio
 • Create a profile with photo and bio, create a bio, create a bio



YouTube
What: Largest online site and community for video sharing
Social Media Category: Archiving site
Target Audience: Initially, young crowd, now YouTube has become the number 2 search engine after Google, with many users searching information.
Start: Launched 2005
Users: unknown, but 65,000 videos uploaded daily
Annual Traffic: 100 million video viewers per day
Cost: Free

Getting Started: Create an account and begin uploading videos to YouTube

Unique Features:
 Have virtual videos in 3D space and webcams
 automatic stream previews
 algorithms for public navigation
 Webpage tags and categories videos

Specialties:
 YouTube videos about the issue of global warming
 call military action 9/11

Pros: Research video sharing platform; substantial traffic

Cons: High quality information other video sites

Similar Sites: Vimeo (Best for copyright)

Ethic & Social Media

- General Rules of Thumb
 - Authenticity is the touchpoint of social media. To use social media in a deceptive fashion undermines its effectiveness
 - Ethics don't stop at the social media portal. Social media changes the media, not the message.
 - A message that was deemed unethical in the offline world isn't more ethical because conveyed in social media.

Ethics Red Flags

- Misleading or False Information
 - Recommending a lawyer you've never worked with
 - Puffing credentials
- Disclaimers
 - Are social media profiles "advertising?" (most bars say no, since they don't target specific clients & primary purpose is to list information)
 - No bars (as of yet) require lawyers to include disclaimer on social media site.
- Testimonials
 - Some bars do not allow a lawyer to post testimonials, but do not bar them at 3rd party sites. RECENT EXCEPTION: South Carolina Bar
 - Some bars prohibit *only* client testimonials, not recommendations from colleagues
 - Some bars prohibit links to ratings e.g. Superlawer. FL bar did prohibit links to Avvo but reversed

More Ethics Red Flags (Using Social Media in Practice)

- Deception
 - Social media seems anonymous & invites deception. But also makes it easier to get caught.
 - Can't "fake friend" a witness to get information in discovery (in many cases social media is discoverable anyway)
 - Oregon lawyer who created a bulleting board in name of teacher & implied sexual conduct was disciplined (Oregon State bar report)
 - Florida judge looked on Facebook, discovered lawyer lied about funeral to postpone case. Reprimanded.
- Communicating with represented person
 - Not allowed in "real life" Not more acceptable via social media.
 - Bars have sanctioned lawyers for plagiarizing. Don't talke blog posts w/out attribution.
- Warning clients about social media
 - Clients should be reminded that social media is discoverable. Even "private Facebook pages" discoverable (Ontario ethics decision, 2/09)

Ethics Red Flags & Legal Issues

- Client solicitation
 - E.g. Accident victim tweets that she was hit by bus. Lawyer tweets to respond and says "let me represent you."
- Client confidentiality
 - E.g. Illinois lawyer disciplined for blogging about clients without fully disguising identity (Oregon State Bar Bulletin 2004)
 - General rule: best not blog about live cases w/out client consent
- Plagiarism
 - Bars have sanctioned lawyers for plagiarizing. Don't talke blog posts w/out attribution.

More Ethics Red Flags

- FTC Rules
 - Require bloggers to disclose source of financial benefits. Could impact lawyers.
- Copyright, defamation law still apply even on line.

- What's your next step....