

TECHNOLOGY

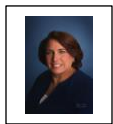
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IN THIS ISSUE

Is your practice using technology as efficiently as possible to maximize your attorney productivity and satisfy client needs as quickly and cost-effectively as possible? Is your firm paying for unnecessary office space and wasted time? Do your management models work to minimize administrative time and maximize time spent on client needs? Below is an outline of practical advice and suggestions on these topics from experienced lawyers that have started and manage their own firms.

Incorporating Technology into the Management of the Work Processes at the Firm

ABOUT THE AUTHORS



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ABOUT THE COMMITTEE

The Technology Committee keeps the IADC membership current on the use of technology in litigation, whether in the conduct of discovery or in the use of technology in the courtroom. It educates its members on the impact of technology in their practices – on the ways they communicate with each other, with courts and clients, on the systems they use to record and produce their work, and on technological developments in marketing for law firms. The committee provides information to its members on legal developments in the law governing the use and development of technology, in particular on Internet and computer law and related subjects. Through its members, it acts as a resource to the IADC staff and leadership on technology issues facing the organization. Learn more about the Committee at www.iadclaw.org. To contribute a newsletter article, contact:



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The International Association of Defense Counsel serves a distinguished, invitation-only membership of corporate and insurance defense lawyers. The IADC dedicates itself to enhancing the development of skills, professionalism and camaraderie in the practice of law in order to serve and benefit the civil justice system, the legal profession, society and our members.

I. Technology and Data Management

Information technology is the application of computers to store, study, retrieve, transmit, and manipulate data or information, often in the context of a business or other enterprise. Two important aspects of law firm technology are the “front” and “back” offices. The front office pertains to the everyday data that attorneys use: documents, motions, pictures, research engines, etc. The back office includes the accounting-related files: expense reports, income sheets, time sheets, client accounts, etc. Progressive firms utilize technology that combines both technological forms into one data management system.

Righi Fitch utilizes data management software that combines both the front and back offices into one. Additionally, the software allows an attorney to remotely access files contained within from geographic locations outside of the central office in Phoenix. Christie Law Group does the same, allowing attorneys to access files anywhere, either on a computer or mobile device.

A. Data Management

Data management has become an increasingly important issue for legal practitioners. The latest technologies have

allowed for law firms and courts to go virtually paperless, while also retaining exponentially more data than ever before. Advancements in technology have allowed firms to shrink the size of their file rooms and file storage areas while increasing the amount of data that they are capable of saving. Effective data management can generally be achieved by using at least one of two technologies: an in-house server; and/or cloud computing.

B. On-Premises Server

Use of on-premises servers has been around for a few decades, and is certainly the more traditional, accepted way of digitally storing files and data. The main benefit of many traditional, server-based practice management applications is maturity.¹ Many of these applications have been around for decades, and have had a long time to develop a rich feature set and cater to the many needs of an evolving law firm.² Popular traditional practice management applications that can be hosted include PCLaw, ProLaw, and Time Matters.³

On-site servers are convenient because all of the hardware and software is located on the premises.⁴ Consequently, any issues that

¹ Law Technology Today, “How to Choose Your Law Firm’s IT Platform, June 29, 2016, <http://www.lawtechnologytoday.org/2016/06/choose-law-firms-it-platform/>.

² *Id.*

³ *Id.*

⁴ Kelly, Joe, *Legal Workspace*, “In-House or in the Cloud: Choosing the Right IT for Your Law Firm, August 1, 2016, <https://legal-workspace.com/in-house-cloud-choosing-right-law-firm/>.

arise can be dealt with on site.⁵ However, unless there is a qualified on-site IT person to manage the system, it will be required to hire expensive IT experts to fix most of the problems, which can be very costly.⁶

With evolving technologies (such as cloud computing, discussed more below), one of the biggest drawbacks to the use of an on-premises server is cost. Setting up on-site IT is an involved process that can easily cost thousands of dollars a year for each staff member.⁷ The firm will need to: purchase and configure servers for data applications, backup, and security; purchase and configure software programs (e.g., a Windows server, the email server, practice management applications, and time and billing systems); and purchase and set up hardware, including computers, laptops, mobile devices, and Bluetooth devices.⁸

Not only is the hardware and software expensive, but so is the cost of hiring IT professionals with expertise in implementing and maintaining such systems.⁹ Unless lawyers are adequately knowledgeable with IT and have the time to devote to it, law firms will find it necessary to hire IT companies to help with setup, configuration, and ongoing maintenance. Initial labor costs can easily reach \$1,000 per staff member.¹⁰ Additional costs may arise for ongoing maintenance, unless someone at the firm can dedicate significant time to

maintaining and troubleshooting hardware and software issues.¹¹ As the firm grows and adds more personnel, someone at the firm will need to oversee licensing additional software, buying more hardware, setting up additional email accounts, and ensuring compliance standards are met.¹² For larger firms, it may be more cost effective and convenient to hire a full-time IT person and/or staff. Many technology professionals recommend one full-time IT professional for every 20-35 end-users. For smaller firms, it would be likely be more cost-effective to retain an outside IT company who can manage your systems.

Other factors to consider when evaluating whether to use an on-premises server are security, which requires continuous and costly software updates, and backup plans in the event of natural disasters (such as fires or hurricanes).

At BHH, the on-premises server continues to be utilized as the vehicle for providing data management. In addition to providing technical support for all of BHH's technological needs, an outside IT vendor is retained for the purpose of installing and maintaining hardware and software used by the firm. By using a server with a large storage capacity, BHH has been able to minimize the size of its file room and storage spaces, while retaining exponentially more files and materials than ever before. As

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

described above, the advantages of this large capacity storage cannot be understated. At BHH, secure servers with large storage capacities keep a paperless record of all incoming and outgoing papers in a file. Everything is scanned into the server, which allows for anyone within the firm to be able to access a file, remotely or within the office, without ever having to physically touch the file. The high storage capacity allows for BHH to keep voluminous libraries of legal briefs and research which can be reused in subsequent cases. VPN software allows for firm employees to remotely access the server. Smartphones and iPads are utilized in order to be able to access files and communicate with others. Data management programs such as Amicus and PC Law have been implemented in order to efficiently store and categorize any and all work performed on a certain file in one central location. In addition, Amicus allows BHH to maintain a centralized list of all contacts and link those contacts to individual files, as well as being able to link all files associated with a particular client together. It also keeps track of all events calendared in a particular file. By embracing the latest technology and data management, it has become possible for BHH to effectively manage an increased caseload without compromising quality.

II. Information Storage and Access – Cloud Use

Cloud computing has been touted as one of the biggest technology revolutions in the 21st century. The cloud gives users the ability to share large files, backup and sync files across multiple computers, and recover previously deleted materials.¹³ The advantages to using the cloud are obvious: it is far less expensive to contract with a cloud vendor and save files on their server than to purchase expensive equipment and enter into IT maintenance contracts.¹⁴ Cloud computing also allows for files to be accessed by smartphones, computers, and/or tablets, in any location where there is an internet connection.¹⁵ However, because the use of cloud computing necessarily means that you are storing confidential files on someone else's server, there are important factors to consider when deciding to use this technology, including: 1) selecting a competent vendor with a good reputation for security; 2) ensuring that the vendor has policies in place to protect the confidentiality of your data (such as sophisticated encryption systems and enhanced procedures which recognize the importance of retaining confidential legal information); 3) supervising cloud vendors to make sure they continue to adhere to important safeguarding procedures; and 4) informing the client, if

¹³ Bennion, Jeff, *Above the Law*, "Can Lawyers Use the Cloud? Should Lawyers Use the Cloud?" February 23, 2016 at 11:02 a.m.,

<http://abovethelaw.com/2016/02/can-lawyers-use-the-cloud-should-lawyers-use-the-cloud/>.

¹⁴ See *id.*

¹⁵ See *id.*

necessary, of your intent to store their information in the cloud.¹⁶

While there is no specific legal guidance on the issue of cloud computing, it is generally accepted that an attorney must use “reasonable care” in ensuring that data entrusted to them remains confidential.¹⁷ Examples of companies who provide cloud computing services include: www.Dropbox.com; www.box.net; www.netdocuments.com; www.worldox.com; and Google Drive.

III. Technology Tools That Work

Technology tools can either make or in some cases break a business. It is imperative to do the research, test the product or tool and don’t be afraid to pass on it and keep looking, or in some cases keep what you have. It can be very easy to get sucked into searching for new technology tools. Keep it simple and remember change is not easy. You have to identify areas that really can use help and make sure you test the product on members of the firm that will benefit from it. With that in mind here is a list of tools we have used with success at ELPO:

- OCR scanner makes thousands and thousands of hard copy documents searchable.
- Lexis for Word effectively converts PDF or hard copy documents to Word.

- Our new iTimeKeep app for phones helps attorneys stay on top of their time so that billing is easy and accounted for. Another option for both calendaring and time/billing is CLIO, an online system assessable by computer, tablet, or smart phone, allowing firm members to access their calendars and input their time on any device at any time.
- DM allows us to search probably over a million documents and locate templates, etc., quickly.
- Nitro PDF allows quick and easy redaction, highlighting, Word to PDF conversion, Bates-stamping, and PDF document manipulation (combining hundreds of documents into the order you choose, etc.).
- FaxFinder allows us to quickly fax documents from our desktop.
- Cisco WebX is a video conferencing service platform that will allow you to set up on-line meetings quickly and easily.

IV. Telecommuting and Management of Wage and Hour Employees In Off Business Hours

Telecommuting is a work arrangement in which employees do not commute or travel, for example by bus or car, to a central place of work, such as an office building, warehouse, or store. With the adoption of wide area networks (“WAN”) (computer networks that interconnect computers

¹⁶ See *id.*

¹⁷ See *id.*

within a large geographic distance), the prevalence of telecommuting is readily apparent. As broadband internet connections become more commonplace, more workers have adequate bandwidth at home to use these tools to link their home to their corporate intranet and internal phone networks.

Today, telecommuters can carry laptops and tablets, which they can use at the office, at home, and nearly anywhere else. The rise of cloud computing technology and Wi-Fi availability have enabled access to remote servers via a combination of portable hardware and software. Furthermore, with their improving technology and increasing popularity, smartphones are becoming widely used in telework.

Righi Fitch is a prime example of how telecommuting can be successful. Righi Fitch's headquarters are located in Phoenix, Arizona and they telecommute with associates residing in both the Central and Midwest regions. One aspect that has made telecommuting successful is the ability for associates to remotely access via a virtual private network (VPN). Additionally, the firm's commitment to going "paperless" allows a telecommuting associate to remotely access important documents, motions, and similar files as well as sign them without the need for printing and mailing paper.

Furthermore, a law firm must account for the difference in time. Depending on the coast a firm is located, there can be

anywhere from a one- to six-hour time difference. Righi Fitch accounts for this difference when assigning projects to telecommuters, as well as maintains an open line of communication. Having open dialogue with telecommuting associates is critical to determining what is and what is not working with the current telecommuting system in place.

BHH prides itself on constant interconnectivity no matter one's physical location. BHH utilizes a telephone conference system, which easily allows us to speak with multiple clients and colleagues in different time zones simultaneously. BHH attorneys also utilize laptops, iPads, and smartphones to always stay connected with each other and clients. These electronic tools allow BHH to remotely access emails and case documents via a VPN. This is especially vital to our 24/7 emergency response team, which immediately sends one of our attorneys to trucking and busing accident scenes to investigate and protect our clients. We have found that the first few hours after an accident occurs are the most important to cultivating a successful defense. During this time, it is crucial for BHH attorneys to have the ability to instantly access and exchange information quickly.

As far as management of wage and hour (non-exempt) employees in off business hours, most of BHH's non-exempt employees do not have access to the firm email through their personal mobile devices. The few non-exempt employees who do have access to the firm email during

non-work hours usually spend *de minimis* time reading and/or replying to firm emails. If a non-exempt employee works during off business hours, they first obtain prior approval from a partner at the firm, and will be compensated time-and-one-half pay for all hours worked in excess of 40 in a work week in compliance with the Fair Labor Standards Act.

V. Outsourcing

In business, outsourcing involves the contracting out of a business process to another party. Here, two organizations are often involved and enter into a contractual agreement involving an exchange of services, expertise, and payments. Companies primarily outsource to reduce certain costs – such as peripheral or “non-core” business expenses, high taxes, high energy costs, excessive government regulation/mandates, and/or labor costs. Often, law firms will have to outsource contract lawyers, paralegals, medical summaries, and on-site inspections.

VI. Staying Current on Technology and Implementing Changes

Staying current on technology and being able to implement changes is essential to the productivity and overall success to any firm. ELPO created a technology committee comprised of members of the firm from every practice group including partners, associates and paralegals to ensure every area of expertise and their needs are represented. This committee meets

quarterly and identifies areas that could use help, researches solutions and implements them in a test group first to ensure the product is useful and then, if effective, releases firm wide with training. To stay current with the new products available, the committee is sending some of its members to a trade show to come back with more ideas and products to test. Here is a portion of the minutes from the committee’s last meeting to give examples of the types of projects and things happening within the firm.

1. We ordered a Microsoft Surface that should be here this week. We will try it in one of the conference rooms to make sure it works as anticipated. If so, we will order some for the remaining rooms.
2. We have ordered a new firm laptop. It should be here this week or early next.
3. One of the bulk scanners will be moved to the second floor in the storage room across from David’s office. This should happen this week or next.
4. We spend \$3,000 a month on postage. Please discuss with your practice groups ways to curtail some of these charges if possible. Email every letter, pleading, settlement demand, etc. when possible. It also cuts down on the paper costs for the firm.
5. We are doing a much better job inputting our time. Starting this month, there is a chart that will be

placed in the lawyer financial binder detailing the number of days that it is taking each timekeeper to get their time into the system.

6. We are checking to see if our Avaya phone system has a visual voice mail feature. This would allow each voice mail to be translated into text and emailed. If it is a feature, we are going to determine if there is a charge before we implement it.
7. The first lunch and learn meeting featuring the transfer of documents from PDF to Word and use of the bulk scanner was a success. If there are other topics that would benefit everyone firm wide, please share with the group.

ideas for how the use of technology and data management in your firm can help you effectively manage your practice.

A positive work culture and an environment of open communication are essential to how effectively a firm can introduce and sustain changes in technology. Select those technology tools that will improve efficiency, be readily adopted across a spectrum of experience levels, and enhance the work environment. Commit to supporting those technologies with proper training, so people feel equipped to use these tools.

Conclusion

As adoption of technology and data management becomes more widespread across the legal industry, it will become increasingly more important for law firms, regardless of their size, to use these products to survive. Hopefully, the presentation has helped to uncover some

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