
PAPERLESS 101: ETHICS AND POST-PAPER LAWYERING

DANE S. CIOLINO¹ & ERNEST SVENSON²

I. Introduction

- A. Generally: This audiovisual self-study CLE course will discuss the practical and ethical reasons why lawyers should begin to manage their documents digitally rather than with paper files, folders and cabinets.
- B. Obtaining MCLE Credit: This course qualifies for 1 hour of Louisiana MCLE credit for legal ethics. To obtain credit, you must fill in the form on the webpage on which the video is posted. You must include the two “secret codes” that are set forth in the video to confirm that you have observed the entire video.

II. Why Manage Documents Digitally?

- A. Practical Reasons: Managing documents digitally saves time, money and helps a lawyer better serve his clients.
- B. Ethical and Legal Reasons: The rules of ethics require that a lawyer must provide competent representation, reasonably communicate with his client, adequately respond to discovery and properly handle a client’s file upon termination. Digital document management facilitates fulfillment of all of these obligations.
 - 1. Competence (Rule 1.1): Rule 1.1(a) provides that, “[a] lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”
 - 2. Communication (Rule 1.4): Rule 1.4 provides that, “[a] lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client’s informed consent, as defined in Rule 1.0(e), is required by these Rules; (2) reasonably consult with the client about the means by which the client’s objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client

1. Alvin R. Christovich Distinguished Professor of Law, Loyola Law School, New Orleans (e-mail address: dciolino@loyno.edu).

2. Lawyer, Svenson Law Firm, LLC, New Orleans (email address: esvenson@gmail.com).

about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law."

3. Fairness to Opposing Counsel (Rule 3.4): Rule 3.4 provides that a lawyer must "make reasonably diligent effort to comply with a legally proper discovery request by an opposing party."
4. Returning the Client File (Rule 1.16): Rule 1.16(d) requires a lawyer to promptly return the client's file upon termination of the representation. "Upon written request by the client, the lawyer shall promptly release to the client or the client's new lawyer the entire file relating to the matter. The lawyer may retain a copy of the file but shall not condition release over issues relating to the expense of copying the file or for any other reason. The responsibility for the cost of copying shall be determined in an appropriate proceeding."

III. How to Manage Documents Digitally

- A. Principles: The two basic principles of digital document management are: (1) make it digital, and (2) keep it digital.
- B. Digital Document Organization
 1. File-Level Organization: Name all files using the same file-naming convention. Particularly, name all files with the (sortable) date, author and description. For example, a memorandum created by Dane S. Ciolino on January 1, 2009 about the weather in New Orleans would be entitled: "2009-01-01 Ciolino Memorandum re Weather in New Orleans."
 2. Folder-Level Organization: Use the basic Windows Explorer framework of hierarchical folders. Consider using a structure such as Open Cases > Client Name > Client Matter > Pleadings and Discovery.
 3. Case-Level Organization: Use CaseMap to manage and Bates stamp documents, and to prepare factual chronologies, casts of characters, and lists of issues.
- C. Transitioning to Digital Document Management: Go slowly, methodically and prospectively.

IV. Links to Software, Hardware and On-Line Services Discussed During Presentation

- A. Fujitsu Scanner: The Fujitsu ScanSnap scanner costs approximately \$400.00 and comes with the full version of the essential Adobe Acrobat Standard. Link is: <http://www.fujitsu.com/us/services/computing/peripherals/scanners/scansnap/>.
- B. CaseMap: The best litigation support program for small to moderately large cases is CaseMap. Link is: <http://www.casesoft.com/>. See attached whitepaper on CaseMap's features.
- C. Backup: There are many on-line backup services. One of the better and cheaper services is I-Drive. Link is: <http://www.idrive.com/index.html>.
- D. E-Fax Service: There are several good on-line fax services. E-Fax has been around for a long time. Link is: <http://www.efax.com/>.
- E. PDF Stamping Software: To stamp file names, headers, and footers on your PDF documents, try PDF Stamp. Link is: <http://www.verypdf.com/pdfstamp/>.
- F. Gmail: It is hard to imagine that anyone does not already have email. If not, the best free email service is Gmail. Link is: <http://mail.google.com/mail/help/open.html>.

* * * END * * *