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Setting Up a Law Office

**Saturday, October 17, 2009
9:45 a.m. - 10:45 a.m.**

**2009 Fall Meeting and
National Solo and Small Firm Conference
October 16 - 17, 2009
Millennium Biltmore Hotel
Los Angeles, CA**

JEFFREY ALLEN is a principal in the law firm of Graves & Allen, in Oakland, California. He runs a general practice that, since 1973, has emphasized negotiation, structuring and documentation of real estate acquisitions, loans and other business transactions, receiverships and related litigation. His litigation experience focuses on real estate and business matters, but also includes a variety of torts and personal injury matters. He regularly represents both plaintiffs and defendants. His clients have included banks, savings & loan associations, title insurance companies, real estate licensees, borrowers, lenders, buyers, sellers, landlords and tenants.

Mr. Allen also works as a provider of alternative dispute resolution services as an arbitrator and a mediator. He has served as a member of the Executive Committee of the Alameda County Bar Association ADR Section, a member of the California State Bar Standing Committee on ADR and as the Co-Chair of the Commercial Section of the Association for Conflict Resolution.

Mr. Allen actively participates in the Alameda County Bar Association, the California State Bar and the American Bar Association. He currently serves as Special Issue Editor and writes the Road Warrior column for the Technology & Practice Guide issues of GP Solo Magazine. He also serves as the Editor of the Technology eReport and authors its MacNotes column. Mr. Allen also writes a technology column for Experience magazine and frequently contributes product reviews and articles to other legal publications. He is a member of the Board of Editors of the ABA Journal. He also served as the ABA advisor to the NCCUSL drafting committee for Uniform eDiscovery Rules.

Mr. Allen currently serves on the faculty at the University of Phoenix, and at California State University of the East Bay. He frequently presents at continuing education programs for attorneys throughout the United States on technology-related, technique and California, substantive law and trial practice topics and for mediators on mediation practice and techniques. He has authored numerous articles relating to the use of technology in the practice of law and regularly presents at seminars throughout the United States on the use of technology in the practice of law, and in particular in the context of trial work. In addition to his California license, Mr. Allen is a solicitor of the Supreme Court of England and Wales and a Member of the Rolls of the Law Society of England and Wales.

You can contact Mr. Allen at jallenlawtek@aol.com. He blogs on technology at www.Jallenlawtekblog.com.

Yvonne M. Renfrew completed her undergraduate work at the University of California at Berkeley, and graduated from that University's highly regarded Boalt Hall School of Law, following which she also pursued graduate studies in criminalistics (the scientific evaluation of physical evidence, such as questioned documents), while simultaneously serving as the sole teaching assistant in a Boalt Hall pilot program designed to impart legal writing, research, and other skills to disadvantaged students including, primarily, those admitted to Boalt.

Following her admission to the State Bar of California, Ms. Renfrew worked with the Legal Aid Society of Alameda County where she litigated a number of important cases with state-wide and national implications, before becoming Assistant General Attorney of the Flying Tiger Line, Inc., where she remained until she founded her own practice.

While at Flying Tiger, Ms. Renfrew negotiated the acquisition and conversion to freighters of Boeing 747s for Tiger's fleet, as well as public and private debt placements for the financing for those acquisitions, including one utilizing equipment trust certificates traded on the New York Stock Exchange and identified by the Wall Street Journal as a then-landmark in airline finance. During that same period, Ms. Renfrew also served as the representative of the IATA Legal Committee (and thus as the legal representative of all member airlines, both foreign and domestic) to the Restricted Articles Board, Geneva, Switzerland, for the purpose of developing the theoretical and legal framework and substantive regulations with respect to the carriage of hazardous materials, and was a participant in meetings with representatives of the United States Department of Transportation concerning the harmonization of its standards with the international standards prescribed by IATA. Ms. Renfrew also served on the ATA Committee of [Airline] Industry Litigation, participated in the industry-wide evaluation of the legal and practical implications of participation in domestic and international multi-carrier equipment pooling agreements, and was personally responsible for the identification and elimination of the potentially anti-competitive aspects of an industry-wide freightage clearinghouse. While serving at Flying Tiger, Ms. Renfrew also negotiated and drafted agreements with respect to international and domestic real property leases, lease and interchange arrangements with foreign and domestic air carriers for aircraft and other equipment, carried substantial co-responsibility with respect to the implementation of a multi-national stock purchase plan, provided advice and counsel with respect to collective bargaining and related labor matters both foreign and domestic, and actively participated in the management of a major governmental investigation leading to a highly favorable negotiated settlement.

Upon establishing her own practice, Ms. Renfrew initially combined domestic and international transactional work (such as the negotiation of aircraft acquisition contracts) with litigation at the trial court and appellate level, but gradually moved away from transactional work because of the incompatibility of the travel involved with the demands of her litigation practice, which has increasingly focused on individual rights and constitutional issues. Ms. Renfrew has represented individual and business litigants in many cases resulting in numerous published opinions, some of which have established significant new legal precedents. These include, for example, *Wilcox v. Superior Court* (Second Dist., 1994) 27 Cal. App. 4th 809 [33 Cal.Rptr.2d 446] (the first published appellate opinion decided under California's anti-SLAPP law), *Sehlmeyer v. Department of General Services* (Second Dist. 1993) 17 Cal. App. 4th 1072 [21 Cal.Rptr.2d 840] (expanding application of the privacy provisions of the California Constitution), and

ComputerXpress, Inc. v. Jackson (Fourth Dist., 2001) 93 Cal.App.4th 993 [113 Cal.Rptr.2d 625] (concerning constitutional and anti-SLAPP statute protections for internet posts).

Throughout her legal career, Ms. Renfrew has been active in local, state, and national bar association activities.

Among other local bar posts, Ms. Renfrew served for a number of years as chair of the Litigation Section of the Beverly Hills Bar Association, for many years as a Governor of that Association, as a member of the Board of that Association's Foundation, and as Chair of the Association's Ethics Committee, Chair of its High Technology Litigation Committee, Chair of the Association's Program Committee, and also as Chair of that Association's delegation to the Conference of Delegates of the State Bar of California. Ms. Renfrew was also, in past years, involved and designated as a Master of the Bench in both the Complex Litigation Inn of Court (where she also served on the Executive Committee) and Los Angeles West Inn of Court. Ms. Renfrew also formerly served on the Executive Committee of the Barristers of both the Los Angeles County Bar and Beverly Hills Bar Associations.

At the state-wide level, Ms. Renfrew served for a number of years as a member of the Committee on Administration of Justice of the California State Bar, and has served also on the Resolutions Committee of the California State Bar. Ms. Renfrew also served for many years as a Delegate to the Conference of Delegates of the State Bar, first representing the Los Angeles County Bar Association, and later the Beverly Hills Bar Association. Ms. Renfrew has also been qualified and appointed as a Special Master by the State Bar of California.

At the national level, Ms. Renfrew, among other posts, has served as co-chair of a Litigation Group of the American Trial Lawyer's Association, and as a member of its Presidential Committee on Communications, Computers and Law Office Technology, and its Presidential Committee on Legal Affairs.

Ms. Renfrew has also served as a Director and Vice President of the Boalt Hall Alumni Association.

Ms. Renfrew has also been, over the years, a frequent writer, speaker, and panelist appearing for, among others, the American Trial Lawyers Association, the California Trial Lawyers Association [now Consumer Attorneys of California], the State Bar of California, the Beverly Hills Bar Association, MALDEF, and the Rutter Group, both in areas of substantive law and with respect to the application of high technology to legal practice. She is also the author of a number of articles published by, among others, the American Trial Lawyers Association, the Beverly Hills Bar Association, and the EEOC. Ms. Renfrew was also Co-Director and principal speaker at the first National Conference with respect to tort liability of psychotherapists sponsored by the University of California at Los Angeles. She was also recognized by the California Law Revision Commission for her contributions to its work with respect to proposed revision of California's Administrative Procedure Act. Ms. Renfrew has also testified before various committees concerning substantive law issues at the invitation of such bodies as the California Legislature and the State Bar Board of Governors.

Diana Stepleton is the Director of Sales and Marketing at Ruby Receptionists, a virtual receptionist company serving clients nationwide from its studio in Portland, OR. Ruby has long been the person at the virtual front door of hundreds of attorneys by being the first person a new client speaks with when they call, the cheerful person a frustrated caller is soothed by, and the professional person who connects callers and relays messages with flair. After handling over a million calls and the wide range of scenarios that can arise for solo and small firm attorneys, Ruby is definitely an expert. Diana has leveraged Ruby's collective experience and her personal telecommunications background to assist a great number of attorneys establish a solution that has increased their productivity, reduced their stress, and earned them praise from clients and colleagues alike.

Diana has an MBA, *summa cum laude*, from the University of Montana and a BA, *magna cum laude*, from the University of Washington. She is currently a board member for the Portland chapter of Entrepreneur's Organization.



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Mr. Vittal spent three decades in private practice handling complex business dispute resolution matters in the California and federal trial and appellate courts and in various ADR forums, working in a variety of practice settings ranging from small and mid-sized local firms to a large multinational firm. Then, in the latter part of 2003, Mr. Vittal became General Counsel to Credit.Com, Inc. and Identity Theft 911, LLC, in San Francisco, where he was responsible for all legal affairs and was part of the senior management team of both companies. In mid-2006, he returned to private practice in Los Angeles, focusing on the resolution and prevention of complex business disputes, as well as handling matters involving e-commerce, e-privacy, data security, technology, and entity governance and control. He is a frequent lecturer and panelist in programs for lawyers and other professionals, a frequent author on technology-related issues of interest to lawyers, and serves on the Editorial Board of the Technology & Practice Guide issues of GP|SOLO magazine.

Mr. Vittal is California Co-Chair of the Fellows of the American Bar Foundation and a Fellow of the Foundation of the State Bar of California. Since 1995, he has represented California lawyers in the House of Delegates of the American Bar Association ("ABA") and has represented the State Bar of California in the National Caucus of State Bar Associations. He has served on the Court Fees Working Group of the California Judicial Council and is a past President of the California Association of Local Bars and the Beverly Hills Bar Association, a former co-chair of the California Statewide Bench-Bar Coalition, and a founder of Californians for Legal Aid (a grassroots lobbying organization formed to preserve LSC and IOLTA funding for legal services to the indigent). He has served on the Executive Council of the National Conference of Bar Presidents, the Board of Trustees of the Los Angeles County Bar Association, the Board of Governors of the Beverly Hills Bar Association, the Board of Directors of Public Counsel, and the Complex Litigation Task Force of the State Bar Business Law Section. He also has served as a judge *pro tem* of the Beverly Hills Municipal Court and a judge *pro tem* and judicial arbitrator of the Los Angeles Superior Court. Having served on the ABA Standing Committee on Technology and Information Systems, Mr. Vittal is a member of various committees and subcommittees of ABA and other bar association Sections, including the Corporate Counseling and Litigation, Cyberspace Law, Internet Law, eCommerce, eFiling, and Privacy and Data Security Committees of the ABA Business Law Section; the Information Security, Privacy & Computer Crime, eFiling and ePrivacy Committees of the ABA Science & Technology Law Section; the Technology Committee of the ABA General Practice Solo & Small Firm Division (Chair); the Technology



Committee of the ABA Tort Trial and Insurance Practice Section; and the Cyberspace Law Committee of the Business Law Section of the State Bar of California (Vice Chair). He currently also is Chair of the Law & Technology Committee of the ABA Tort Trial and Insurance Practice Section.

A representative sample of Mr. Vittal's engagements includes the following:

- Successful prosecution of an invasion of privacy case under federal law, involving the use of keylogger hardware and software, in which the plaintiffs obtained terminating sanctions for the defendants' spoliation of evidence, followed by a judgment for compensatory and punitive damages and attorneys' fees.
- Successful prosecution of a damages and injunctive action in the California trial and appellate courts, and the Texas bankruptcy court, of a case involving a fraudulent presentment against a letter of credit, multiple breaches of a stock purchase agreement, and various acts of unfair competition.
- *In re. Attorney Discipline System*, 19 Cal.4th 582 (1998), in which the inherent power principles advocated by Mr. Vittal on behalf of an *amicus curiae* were adopted by the California Supreme Court as one of the bases for its decision.
- *Garstang v. Superior Court*, 39 Cal.App.4th 526 (1995), in which the privacy principles advocated by Mr. Vittal on behalf of an *amicus curiae* were adopted by the Court of Appeal as the basis for its decision.
- Successful prosecution of multi-million dollar construction defect claims on a 110-unit affordable apartment project.
- Successful defense of a bank president in civil RICO actions in the state and federal trial and appellate courts over a period of 7½ years, while acting as co-lead defense counsel.
- Successful defense of the conservator of a failed savings and loan association in a civil RICO action brought by a mortgage banker falsely alleging participation by the failed thrift in fraudulent "land flips."
- Representation of a mortgage banking subsidiary of a savings and loan association in litigation initiated by a warehouse lender, ultimately resulting in the successful workout of the \$60 million credit facility and the related warehouse loans.
- Successful defense of a multi-million dollar cost overrun construction claim on a major commercial building.

- Successful representation of the target of a hostile tender offer, including litigation in the federal trial and appellate courts in California and Delaware, the state trial and appellate courts in Delaware, and administrative proceedings in various jurisdictions.

A California native, Mr. Vittal attended the Pestalozzi Gymnasium in Herne, NRW, Germany, as an exchange student. He obtained his bachelor's degree from Stanford University, participated in a doctoral program in artificial intelligence at the University of California at Irvine, and obtained his J.D. from U.C.L.A.

Before embarking on his legal career, Mr. Vittal served 19 months on active duty in Viet Nam with the 1st Cavalry Division (Airmobile), where he received several decorations including the Bronze Star, and was a department manager for Control Data Corporation.

Mr. Vittal is married, with two sons and a grandson.

Rev. 09/09/09

A PAPERLESS OFFICE

AT HOME AND ON THE ROAD

Thinking Things Through

In starting your own firm, you are free to pursue a well-planned paperless strategy from the very beginning, without the considerable headaches that ongoing firms encounter in making the decision to “convert” to paperless. This is because you will be at least relatively free of the baggage of large stores of “old” paper files accumulated over years of operation. On the other hand, possible lack of experience with such stores of paper data, and the varying classifications required to organize them coherently, imposes a substantial burden in terms of thinking things through to ensure that the organizational infrastructure initially set up will continue to serve as your firm, and its store of documents, grow over time. This article will, hopefully, provide you with a starting point for devising and implementing the basis for a sound system.

The benefits of a largely “paperless” office over the traditional paper-bound practice are many. These include, among others, (i) dramatic savings in floor space requirements with attendant savings in office rental expense, (ii) significant potential savings in employee expense, (iii) rapid and efficient access to existing documents, (iv) far more practical solutions for backup and disaster recovery, since electronic documents can be easily duplicated at multiple (including off-site) locations, and (v) the ability to easily take entire client-matter files with you when you travel or go to trial. Arguably the most valuable advantages of electronic over paper files is the ability to make your files “searchable”, something more fully discussed below. Turning these potential benefits into reality, however, requires that one move from generalized musing to concrete and careful planning informed by the realities of what needs to be done.

Discussion of the concept of a “paperless office” too often lacks the functional focus of what is sought to be achieved. For purposes of discussion here, such functions will be classified as (i) document *production*, in which category, in the legal context, fall all aspects of work product creation including legal research, court filing, transmittal and the like, and (ii) document *storage*, in which category is included conversion into appropriate electronic format all documents received from others, and the *final* product of our own endeavors (in short, all of those things traditionally stored within office files in “paper” format).

Paperless “storage” of Client and Case Files

Of the two categories we have defined, *Paperless Storage* of client matter files is the easiest to implement, and offers the most immediate positive impact on a firm’s bottom line through reduced storage (including space requirements) and labor costs, while simultaneously offering substantial productivity increases by making all necessary

documents and files immediately available to those whose work requires such access. Fundamental to implementation of firm-wide electronic file storage are adoption of (i) a uniform organizational structure for such files, and (ii) a uniform file format.

Example Directory Structure for Stored Client and Case Files

Numerous commercial document management systems (“DMS”) exist, most of which will meet the need for uniform storage structure. The relative merits of those commercial systems are beyond the scope of this discussion. For new sole practitioners and small firms unable to justify the purchase and implementation costs of such a system, use of ordinary Windows directory structures may be utilized, but only with important caveats, including the necessity of enforcing *uniform* practices with respect to directory structure, file-naming, and related conventions and practices. A workable on-disk directory structure might, for example, be as follows:

\CLIENTFILES [ALL]

 \CLIENT-MATTER [*e.g.*, SMITH-JONES]

 \\$ [Cost Records]

 \CASEMAPS-NOTEMAP-ETC.

 \Correspondence

 \Discovery

 \Defendant [including discovery propounded by Defendant
and responses thereto]

 \Plaintiff [including discovery propounded by Plaintiff and
responses thereto]

 \Legal-Research

 \Misc.

 \Pleadings

 \RT [Reporter’s Transcripts]

 \Trial Documents

 \EX [Exhibit List]

 \MIL [Motions in Limine]

 \WITS [Witness List]

 \VoiceMail

\X [Exhibits for use at trial]

\XX [Prospective Exhibits for use at trial]

Needless to say, a particular firm may choose to have a different basic file structure. What is important is that the structure be uniform throughout the firm. To this end, a “pattern” directory structure should be decided upon and set up to be used as a “template” for each new client matter opened. For example, once you have designed and settled upon a basic directory structure to be used, actually create that directory structure in a single location which you might call, for example, “MASTER CLIENT FILE STRUCTURE”. Then, each time a new client matter is opened by your firm, you can simply copy and paste that MASTER CLIENT FILE STRUCTURE under your \CLIENTFILES [ALL] directory, change the newly pasted directory named \CLIENT-MATTER [*e.g.*, SMITH-JONES] to the actual name of the new matter, and you will be good to go.

File Format

With only the rarest of exceptions, all “permanently” stored files should be in a uniform *non-editable* format. The overwhelming majority of knowledgeable users (and for good reason) *now* utilize Adobe Acrobat format, although some firms utilize TIF format for this purpose.. Your “permanent” client-matter and other important documents, however, should *never* be stored in editable word-processing format. The very fact that such documents are editable means they are not immutable and thus will not necessarily show you what the “final” form of document was *as filed with the Court*, or *as served upon opposing parties*. Worse yet, when displayed on different computers the same editable document may display differently because of different global “templates” and other idiosyncrasies of the displaying computer. Unless you utilize a non-editable format for “permanent” storage of your documents in final form, you can never be certain even that what you are viewing is actually the “final” (as opposed to some intermediate draft) of a critical document – much less what that document looked like *as served and filed*. There are many excellent reasons for choosing Adobe Acrobat as your standard storage format, some of which are mentioned below.

Separation of Stored Files from Working Documents in Progress

Successful implementation of electronic storage of “permanent” case files critically requires that the documents which will constitute your permanent client-matter files be strictly segregated from “working” files such as, *e.g.*, word-processing files in the document-creation stage. Not only should word-processing files *never* be placed in the “permanent” client files for the reasons stated above, but placing your working documents into the “permanent” files will clutter your permanent files in a manner which renders them unreliable, if not entirely useless, as a substitute for paper files. We suggest that files in the document-creation stage be placed in an entirely different directory structure reserved for “work in progress” (*e.g.*, (WIP)). Once a work-in-progress document has been actually completed, served, and filed, then – and only then – should it be converted into your “permanent” file format and placed in the appropriate

“permanent” client-matter directory.

You might wish to set up a “WIP” directory with sub-directories for each project in progress, *e.g.*, \WIP\DRAFT Jones-Smith Opposition to Smith MSJ”. Auxiliary documents used for reference in preparing that Opposition (*e.g.*, a copy of the motion being opposed, copied from the “permanent” files where the motion was “permanently” stored upon receipt) can then also be stored in the directory for that WIP project.

File-Naming Conventions

For reasons too numerous to list here, ***uniform*** file-naming conventions are critical, and especially so if you are relying upon a directory structure rather than a commercial document management system. Every person in your firm should be able to locate a document (whether by visually scanning the directory in which such a document type was required to be stored, or by utilizing the “search” function within such a directory, or even within the entire directory structure for a particular matter) with the same ease as could the person who originally named and stored that document. In this connection, we advise adoption and enforcement of the following file-naming conventions,

- ✧ ***START FILE NAMES WITH DATE IN YYYY-MM-DD FORMAT:***
ALL names of files in your permanent client matter files (whether pleadings, exhibits, or other) should begin with a date in YYYY-MM-DD format (*e.g.*, 2008-02-03). Although all of the advantages of doing so are too numerous to list, this will, among other things, cause all of the documents within each directory to appear automatically in chronological order. With respect to pleadings, discovery, and the like you may choose to utilize service or filing date, and you may wish to follow YYYY-MM-DD with an indicator of the nature of the date utilized (*e.g.*, “S” if the date you have used is the “service date”, “F” if it is the filing date, “H” if it is the hearing date). With respect to documents which may potentially end up being Exhibits, you will wish to use the date of the document itself (*e.g.*, 1997-06-07 Deed from Smith to Jones), rather than the date the document was transmitted to you.

[The foregoing applies to how documents are to be named once entered into your directory structure for your “permanent” client files. During file-creation stages, it may be wise to name the document DRAFT [Description], so as to ensure that documents in progress are clearly identified as non-final. When the document is in final form, it should then be converted to your “permanent” storage format, and named with the MMMM-YY-DD designation replacing the “DRAFT” portion of the file name used during the document-creation stage.]

- ✧ ***PROHIBIT ALL BUT DESIGNATED MANDATORY ABBREVIATIONS IN FILE NAMES:*** Permitting individuals to utilize

non-uniform abbreviations of their own devise makes far more difficult to locate particular documents, especially using search functions, and also reduces the comfort level of others in using the system. Thus, if you want to utilize, *e.g.*, “LT” or “LTR” to designate a “letter”, then choose and make one of those a “mandatory” abbreviation. One abbreviation which we recommend as useful is “M.O.” [with periods after each letter] to designate Minute Orders. If you use only “MO”, then a search for all Minute Orders will return also all “Motions”, thus complicating the rapid location of all Minute Orders. Think through carefully what abbreviations you wish to use in file-naming, make those mandatory, and prohibit all others, so as to increase the uniformity and hence efficiency of your electronic filing system.

- ✘ ***INSIST THAT FILES BE CORRECTLY NAMED AT THE TIME INITIALLY STORED:*** It is important that file-naming be done correctly initially, since later changes to file names to bring them into conformity with firm rules pose the danger of breaking “links” to particular documents in other programs (*e.g.*, CaseMap). In other words, a latter change or “correction” in the name of the linked file will render non-functional the “links” to that file which may have been created by others. (If you are not familiar with the concept of “linking” documents, do not despair since you will learn that in due time, but do understand and enforce the practice of naming documents correctly in the first place so as to avoid any necessity to later rename them.)

- ✘ ***MAXIMIZE UNIFORMITY IN FILE NAMING IN OTHER WAYS:*** The more uniformity you establish with respect to file-naming, the better. Other “rules” to be considered include (i) “from-to” uniformity (*e.g.*, always place the same of the sending party first, such as in 2005-06-17 Letter from JONES to SMITH”), and (ii) uniformity reference to proper names (*e.g.*, when naming files, always refer to Bob Jones as “JONES”, thus avoiding unpredictability as to whether the foregoing example would be found as “2005-06-17 Letter from JONES” or “2005-06-17 Letter from Bob”), thus again facilitating efficiency of search functions.

Storing Documents in the Permanent Client Matter Directories

Successful implementation of an electronic storage system is critically dependent upon (i) the capture of all incoming and outgoing documents, and (ii) the immediate correct placement of each document, correctly named, into its proper location in the directory structure.

Incoming Documents

Ideally, all incoming mail should be scanned before it is distributed or otherwise scattered.

Method 1: CHRON FILE CREATION AND SUBSEQUENT EXTRACTION OF INDIVIDUAL DOCUMENTS: All mail (and faxes) received on a particular date may be batch-scanned into Adobe Acrobat format, and then saved to a “CHRON” directory which is separate and distinct from the location for storing permanent files for individual client matters discussed above. You can then save that batch scan by date, *e.g.*, “\CHRON\200-02-21”. This will provide you, in addition to your permanent client files, with a “Chron” record of all mail received on each date (something which used to be regularly maintained by all law offices, often proved invaluable, but is becoming less common). A heavy duty production scanner is valuable for such batch scanning. Then, after you have batch scanned all mail received on the particular date, you can “extract” from the single file for that date thus created, the individual documents which, once extracted, you will name per the firm’s naming conventions, and store in the appropriate directory for the specific client-matter to which each document pertains. If you have the foresight to “OCR” the CHRON file before extracting, then each of the individual documents extracted therefrom will be searchable without the need to individually OCR each of the individual files extracted for filing to the appropriate client-matter directory.

Tip: First save your Chron file for the date to a file named “Temp”, and as you extract each individual document, check the box to delete extracted pages – something you should *not* do if you are extracting directly from the Chron file itself. By using the intermediary “Temp” file, you ensure against unintended modifications to your Chron file.

Method 2: INDIVIDUAL DOCUMENT SCANNING: Scan each individual document, and then save to the appropriate client-matter directory using your firm’s previously established file-naming conventions. For individual document scanning, a lower volume (and less efficient) scanner may be used such as, *e.g.*, the Fujitsu ScanSnap (which is really dedicated to scanning to PDF, and will, if you wish, OCR the document in the process) or any of myriad others.

Additional Methods: There are services which can eliminate or reduce the amount of in-house scanning and paper-handling required, making your office even more “paperless”. For example, a service called “PaperlessPOBox” will provide you with a P.O. Box address (which you then use as your address for service and other correspondence). PaperlessPOBox then scans your mail (with or without color, and with or without OCR) which it then transmits to via email as an attachment already in PDF (Adobe Acrobat) format. Upon receipt, you need only open the attachment, and then “save as” a document named pursuant to your firm’s file-naming conventions to the appropriate client-matter directory. If you wish, Paperless P.O. Box will, for an additional fee, retrieve and transmit to you the original of any specified documents (useful for, *e.g.*, needed originals of discovery responses, etc.) [Drawbacks to this service may include delayed delivery, and imperfect scanning.] Numerous services (*e.g.*, MaxEmail) exist which will receive your faxes, transform them to PDF (Adobe Acrobat)

format, and then transmit them to you via email, which you will then rename and store per your firm's established file-naming and storage conventions. These services are particularly valuable for sole practitioners who may thus receive not only faxes, but also U.S. Postal Service mail even while traveling away from the office.

TIP: You may very easily avoid having to change your well-established fax number to use such services (all of which assign you a fax number as part of their service) by the simple expedient of having your already-existing and established fax number “forwarded” to the number assigned to you by the service you choose. Using call forwarding in this way permits you, of course, to change services whenever you wish, or even to return to a more conventional fax machine, all without any need to change your already-existing fax number.

Paperless File Creation

Creating Outgoing Documents

Many relatively inexpensive programs are available which will transform word-processing documents into PDF (Adobe Acrobat) format for permanent storage in your client-matter directories, and in fact some word processing programs themselves will “write” to PDF format. The superior solution by far, however, is to purchase and utilize (for this and many more purposes) the latest full version of Adobe Acrobat Professional. Upon installation of the full version of Acrobat, a “virtual Adobe PDF printer” is installed on your computer. Then, instead of printing to a “physical” printer, chose to “print” to the Adobe PDF printer (which, in reality, creates an Adobe PDF version of the document being “printed”). You will be asked where to save the resulting PDF file, and will designate the appropriate client-matter directory and assign a name for the document chosen in conformity with your firm’s file-naming conventions.

A continuing issue for purists wishing to operate a truly paperless office is the problem of placing signatures on documents, including those to be served and filed. Non-purists may solve this problem by printing to a “regular” printer those pages on which a signature appears, hand-signing those pages, then scanning the signed pages (e.g., on your desktop ScanSnap), and then inserting the signed pages in place of the unsigned pages in the document converted to PDF from your word-processing document. [Since, unfortunately, Appellate Courts do not yet accept anything but wet-ink signatures, the non-purist procedure will, for now, have to be employed for appellate filings.] In trial courts, there exist other solutions as well. First, Acrobat itself has a “signing” function which permits affixing an electronic signature which you may, in advance, arrange to include a reproduction of your “wet-ink” signature. Acrobat also has a “stamp” function, and you may, in advance, create a “stamp” of your signature (much like the common rubber “signature stamp”) to be affixed to the document at the appropriate location. Best of all, those with a “tablet” computer may, utilizing a program called “PDF Annotator”,

open the PDF document and then physically sign it onscreen using the electronic pen which comes with all tablet computers.

TIP – Exhibits and Exhibit Dividers -- Many documents have repetitive elements, such as Exhibit Dividers. Using your word processor, create a document which has, in the footer “EXHIBIT ‘[Sequence letter or Number]’”. Replicate that page (using copy and paste) numerous times to create a multi-page document which, if printed out, would consist of pages all blank except for “Exhibit ‘A’”, “Exhibit ‘B’”, etc. appearing at the bottom. Then “print” that document to your Adobe PDF printer and save the resulting document in a convenient place (perhaps naming it “Exhibit-Dividers”). When you wish to create a document containing multiple Exhibits (*e.g.*, Declaration of Smith, which has Exhibits “A”, “B” and “C”), you do the following: First, use your word processing program to create the Declaration, then “print” it to your Adobe PDF virtual printer. You know you have three Exhibits (A, B, and C), so open your “Exhibit Dividers” PDF document and extract three pages (which will be blank except for showing, at the bottom, “Exhibit ‘A’”, “Exhibit ‘B’” and “Exhibit ‘C’”). Insert those three pages at the end of the PDF document “Declaration of Smith”. Then insert the PDF version of Exhibit “A” immediately following the “Exhibit ‘A’” divider page at the end of the Declaration of Smith, insert the PDF version of Exhibit “B” immediately following the “Exhibit ‘B’” divider page at the end of the Declaration of Smith, etc. If you are utilizing the full Adobe Acrobat program, this assembly of the final document is extremely simple. When you have a PDF document open, you can click on icons which will show you the individual “pages” in the document as small thumbnails on the left side of the screen. You can insert any page from one PDF document (*e.g.*, the “Exhibit ‘A’” divider) into another PDF document by simply clicking and “dragging” a page from one PDF document into the desired location in another PDF document (*e.g.*, where you wish to place the Exhibit “A” divider in the Declaration of Smith). You can also insert an entire PDF document (*e.g.*, the document constituting Exhibit “A” itself) anywhere into another PDF document by using the Document > Insert Pages menu items. In short, assembling your “final” document in PDF format is very simple if the components are also in PDF.

Paperless Filing and Service

Paperless filing has become increasingly commonplace, and there are numerous services (*e.g.*, OneLegal, LexisNexis) which permit you to upload your paperlessly created document for court filing. Paperless service, however, can be more problematical. We are aware of only one service (LexisNexis) which currently will serve uploaded documents *by mail*, and unfortunately that service (at least of yet) does not have quite nailed down the niceties of California law with respect to service by mail. Currently, then the best alternative is either electronic service (one is offered by LexisNexis) to which all parties have stipulated, or your own electronic service pursuant

to stipulation of the parties. In this latter connection, document size is not a problem since numerous services (*e.g.*, sendthisfile.com) exist to which you can upload a large document, and you can then transmit via email a link to that document to all recipients who can then click on the link and download the document. Some of these services limit the number of recipients who can be specified at the time of upload, but that problem also is easily circumvented, since you can specify yourself as the recipient, and once you have received the link can then copy and paste the link into your own emails to the intended recipients. [Such a procedure works, of course, not only for “service”, but as a means of transmitting a document too large for attachment to an email to a client or any other recipient, thereby eliminating the need to transmit large documents in hard copy via overnight courier.]

Paperless Legal Research

While you’re in a “paperless” frame of mind, consider the value also of creating a separate directory to save cases discovered in the course of your online legal research on Lexis, Westlaw, or the like which are of general utility or address issues likely to arise in your practice. Saving such cases, preferably in PDF format, to your “Law Library” directory when you (sometimes quite accidentally) come upon them will save untold time in later attempting to locate a by-now-barely-remembered opinion addressing the issue.

Other Office Documents

The utility of the “paperless” practices described above are not, of course, limited to case-related documents. Virtually all paper that comes into your practice (including, *e.g.*, bills, purchase orders, bank records, and miscellaneous correspondence) can be scanned and stored electronically, rather than in “paper” format.

Making Your Files “Searchable” – OCR

The ability to “search your files” (*e.g.*, your trial exhibits) for particular content is among the most valuable benefits of maintaining your documents in electronic form. This in many instances is accomplished through a process called “OCR”, which stands for “optical character recognition”.

An Acrobat PDF file which is created from a word processing or similar program usually does not need to be put through the OCR process to be searchable.

An Adobe PDF file created by means of scanning, however, is usually not searchable unless it is first put through the OCR process. This is because putting a document through a scanner is much like using an ordinary copier to duplicate the document. All you really have is a “picture” of the original. OCR is a process which permits that picture to be analyzed so that letters and words appearing in the document are “recognized” as such. Once OCR has been done, and the OCR’d document has been “saved”, you may then use the “search” function of Acrobat (or even the search function

of Windows itself) to locate where, in a particular document (or a group of documents) a particular word or phrase appears. By way of a simple example, you could locate all occurrences of the name “JONES”, or all occurrences of the phrase “Deed of Trust”.

You will come to recognize the ability to search your electronic documents as indispensable, and never more so than in preparation for trial, when the ability to search for specific content in your trial exhibits is invaluable. Searches in their most simple form permit finding a particular word or phrase in a single open PDF document (using menu items Edit > Find). Far more powerful search capabilities are available with Adobe Acrobat, however. The basic “Search” function (using menu items Edit > Search) permits you to find a word or phrase or variant thereof in any document in a specified directory (which may include its sub-directories). Even more powerful and much faster is use of the Acrobat “Catalog” function which permits you to create an index of all words in specified directories (using menu items “Advanced > Document Processing > Full Text Index with Catalog, and then click New Index), and then to conduct a search using the index/catalog (using menu items Edit > Search, and specifying the Catalog as the “Look In” location) – something far faster, more powerful, and useful, than even the ordinary “Search Command).

Because it is in the ability to OCR and search that the greatest power of electronic file maintenance lies, you should ensure that all of your electronically stored documents have, in fact, been OCR’d, and thus been rendered searchable. This is not an onerous task, because methods exist for OCR’ing large quantities (or even all) your documents in a single pass.

TIP: A full version of Adobe Acrobat permits you to “OCR” any PDF document (thus making that particular document searchable), and the “PRO” Version of Adobe Acrobat permits you to “batch process” (*i.e.*, to OCR all documents in a specified directory (*e.g.*, the directory containing your trial exhibits) in a single pass. Third party vendors (*e.g.*, Acrobotics at www.acrobotics.net) afford even stronger OCR capability, which permit multiple directories and sub-directories (even ALL of your client-matter directories) to be OCR’d in a single pass.

Taking It On the Road

One of the great advantages of paperless client files is the relative ease of taking it all with you on the road, or even to the local Starbucks.

We assume that in the office, your client files reside on a network drive. How then to take them with you? Today, laptops can be had with capacities of more than 200 gigabytes. Also available are excellent inexpensive external USB drives in the multiple hundreds of Gigabytes, yet hardly larger than a deck of cards or pack of cigarettes. We do not, however, suggest using ordinary “copy” functions (with attendant demands upon your time and attention, and risks of data loss) to take your client files with you. Instead,

specialized software, such as Mobiliti from Packeteer can do this for you. For example, suppose all of your client files reside on a disk which has been “mapped” to be regarded by all machines on your network as Drive K:. Install Mobiliti on your laptop, and tell it you want to create a new “network” project called, *e.g.*, “Client Files To Go”. Mobiliti will essentially “clone” the client files on Drive K: (or such as those client files as you specify) to your laptop (or USB Drive attached to your laptop). You go to Hoboken. If, when you were in the office with your laptop hooked into your network, you could bring up a file on Drive K, you will be able to do the same in Hoboken or at your local Starbucks. Furthermore, because you address the file in the very same way (*e.g.*, K:\Jones-Smith\X\1997-06-07 Deed from Smith to Jones) from Hoboken as you would if you were sitting at your own office desk, all links that you have created to that file in other programs (*e.g.*, CaseMap) will work without a hitch. Then when you return to the office, you can run Mobiliti again and it will synchronize your laptop and the network drive K:, and will add to both locations new files added, etc.

<p>TIP: Packeteer’s Mobiliti can also serve as your backup software, and can be set to run automatically unattended during the night.</p>
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Furthermore, if you outfit your laptop with a card or modem which affords high-speed internet access, then you can continue with your legal research and other internet activities also while doing your work in Hoboken. Assuming you have such internet access from your laptop, then if you find you need something omitted from your Mobiliti “cloned network”, you can get that also, provided you had the foresight, before leaving, to subscribe to and install “GoToMyPC” on your office computer, which will permit you to access your desktop computer as though you were sitting in front of it, and will also permit you to transfer any file accessible by that computer to your laptop now in Hoboken.

Additionally, it is possible to scan while on the road. Small page scanners in the Visioneer Strobe series, and others, weigh in at around or just over a pound and easily fit in a computer case or briefcase. For scanning from books, or other sources from which you cannot feed pages individually, consider the Planon System DocuPen Handheld scanner which weighs barely over 2 ounces. And don’t overlook the potential benefit of a business card scanner to take with you to conventions and other out-of town travel, because capturing and preserving contact information is potentially of great value to new lawyers, and over the years can build into a major practice asset. A small USB card scanner (*e.g.*, the CardScan Personal, www.cardscan.com) can become worth its weight in platinum, not to mention permitting you to appear to have a fabulous memory as to when and where you met the individuals whose cards you will permanently collect.

<p>TIP: If you’ve had enough of work, and have had the foresight to install a</p>
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SlingBox from www.SlingMedia.com on your home TV, then wherever you are in the world with an internet connection, you can catch an episode of Law and Order (or anything else accessible by your home TV) or anything stored on your TIVO, from anywhere in the world.

TIP: Resist the Temptation to “File and Forget” With case and non-case material like, it is essential not to put documents out-of-mind once they have been scanned. You need as effective and religiously utilized case and task management system to ensure that due dates and deadline are met. And, we need hardly say, backup...backup...backup.

Minimum Equipment Requirements

Computer: We assume you would not consider going paperless unless you were in fact possessed of a computer [possibly a laptop] of reasonable power and speed.

Scanner: For anyone seriously contemplating going completely (or virtually) paperless, we recommend the purchase of a production scanner (expensive at several thousand dollars, but far less so than hiring employees to first lose and then attempt to find your documents in a traditional paper filing system). Such a scanner is essential for firms with already accumulated large stores of paper documents which they wish to “convert” to paperless files, and even a small practice will find it necessary as the practice and volume of paper needing scanning grow. When purchasing a production scanner, we recommend one with at least a 500 page ADF (automatic document feeder), a speed of at least 90 pages per minute, and with duplex and color capability.

For those starting a firm, such an expenditure may not be possible. In that case, numerous inexpensive scanners are available. We are familiar with and have recommended the Fujitsu ScanSnap, which is around \$500, smaller than a toaster (so can be set conveniently on a desk), has duplex and color capability, and one-touch scanning. Its primary function is to scan documents to Adobe PDF format, and built in software can deliver that PDF already OCR’s (searchable), although at a cost in terms of scanning time. The ScanSnap is not “Twain compliant”, which means it is not recognized as a device by other Windows programs, but that is not a problem if it is being used for its primary function, *i.e.*, to scan paper documents to PDF. Consider starting with a ScanSnap, and as soon as you are able, purchase a production scanner and grab the ScanSnap to use as your personal desktop convenience scanner.

In deciding what scanner to acquire and what you can “afford”, be certain to take into account the value of your time, and that of any employees, since less expensive scanners are generally both slower in terms of pages scanned per minute, and have much lower capacity automatic document feeders, which means that more time is expended in refilling the feeder in order to complete your scan.

Printer: However “paperless” you may go, inevitably you will need a printer, and a very good printer, preferably with lots of memory because printing out a PDF is more consumptive of memory and resources than is printing out an ordinary word-processing document. An underpowered printer may make printing PDF documents (when necessary to do so) a time-consuming and otherwise problematical undertaking.

TIP: Whatever class of scanner and printer you choose, redundancy is of inestimable value. Whenever possible, always have another way to accomplish your task in the event a key piece of equipment ceases to function, since it is a law of nature that this will happen only when your need for that equipment is most urgent.

Software:

Word Processing/Document Creation: You of course need, and we assume you have, document creation (especially word processing) software, probably Microsoft Word.

Adobe Acrobat: In addition to document creation software, you need software to control your scanning, and software for the handling and reading of your electronic documents. Many scanners come with software, although this is often (in our experience invariably) of less than optimal quality, even with very expensive scanners. Adobe Acrobat (preferably the latest “Professional” version) does all of this and more, and does it right. Additionally, Adobe Acrobat has long since become the de facto standard for electronic document exchange within the legal community, among others. We highly recommend that you purchase the latest Professional version of Adobe Acrobat, and that you not attempt to save a few dollars by using instead one of the numerous available substitutes which claim to create PDF files. Inexpensive substitutes not only all fall short in various ways, but lack many of the highly valuable functions of Acrobat Professional (e.g., catalogs for fast searches, “collections”, and the ability to create PDF “packages”), all of which will prove invaluable in various aspects of your practice, even though beyond the scope of this article. We would not ourselves want to undertake operating a paperless office without the latest full version of Adobe Acrobat Professional (and no, I own no stock in Adobe, although I am a beta tester for the upcoming Version 9).

SUMMARY:

Opening a new practice provides an excellent opportunity to go paperless, provided you are willing to devote the necessary thought, planning, discipline necessary to successful implementation. This includes establishing and enforcing uniform storage structures and file-naming conventions. Procedures must take into account both the

naming and storage of incoming documents on the one hand, and the creation, service, and court filing of outgoing documents on the other.

To derive the greatest benefit from your electronically stored files, you will OCR them to make them searchable.

Implementation of a paperless practice can be accomplished with only minimal investment in addition to the computer, printer, and word-processing software you presumably already own or will in any event need for other purposes. The essential additions to take your office paperless include a scanner, and a copy of Adobe Acrobat professional.

If you wish to take your paperless office mobile as well, you will need also either sufficient capacity on your laptop, or a high capacity USB drive, and a copy of Packeteer Mobiliti or other synchronization software. With the addition of high speed internet card, you will maintain your ability to conduct legal research while on the road as well as the ability to upload documents for service and filing.

The further addition of mobile scanners, and other available add-ons and services, including delivery of your U.S. Mail and faxes via email, can make you equally self-sufficient whether on the road as in the office.