

Chapter Eight

Technology

There are many routine functions in a law firm that can be standardized and more easily accomplished using technology. As your firm grows and you take on more cases, you may find it is more effective to invest in more robust law practice management products and/or services, such as document automation or practice management software, in order to continue to provide value to clients, work efficiently, and stay organized. Selecting the products and services that are the best fit for your growing practice can be a tricky and time-consuming endeavor, as the number of options in each category can be overwhelming.

Before you start the research process, the ABA Legal Technology Center recommends that you first:

1. Understand the problem you are trying to solve;
2. Determine whether technology can really fix your problem;
3. Look at the costs;
4. Develop an implementation strategy; and
5. Know what comes next.

See “Invest Wisely: 5 Tips for Purchasing Technology,” Joshua Poje, *Your ABA* (May 2014), for further explanation of each step.

If you determine that investing in a more robust law practice management or technology project or service is something that makes sense for your growing practice, consider starting your research process by checking out the ABA Legal Technology Resource Center’s Technology Buyer’s Guide (<http://buyersguide.americanbar.org>), which provides a simple breakdown of technology products and services by category. Product listings include basic information on the product and general contact information for the provider. Please note this Guide is not a comprehensive list, as companies have to pay a fee in order to be listed in it. Colorado Bar Association members can also consult the LPM Software and Hardware webpage and contact the Law Practice Management Department with questions regarding law practice management and technology products and services.

Importantly, review the Appendix of this chapter for articles that explore a variety of technology products and services available.

Chapter 8

CYBERSECURITY

Law firms maintain a wealth of valuable information, including case information; litigation strategies; attorney-client privileged information; personal identity information for employees, clients, and third parties; and credit card information. In addition to the ethical duties to maintain confidentiality, lawyers have legal responsibilities to protect this information, such as under HIPAA. Loss of data is a result of data theft and data leakage. Data theft can be accomplished by such means as hacking or malware. Data leakage occurs through such means as insider misuse, loss of unsecured laptop, communication over unsecured networks, downloading of unapproved software on firm's computer network, or other problems. To protect yourself, your clients, your firm, and your employees, it is important to implement cybersecurity policies, including encryption, effective security software on all devices, training of staff, and proper disposal of all digital media and devices. Many malpractice carriers offer cyber liability insurance and information on how to protect information.

APPENDIX

CBA Resources

Law Practice Management

- As a service to its members, the CBA Department of Law Practice Management provides information and resources on a variety of law practice management issues, including templates on Forms2Share, a collection of materials in the Lending Library, Tech Tuesday Webinars, and monthly newsletters.

Chapter 8

Articles

Business Continuity, Contingency, and Succession Planning

- *The Contingency Planning Guide for Lawyers*, The Law Society of Upper Canada (Oct. 2014)
- *Surviving a Disaster: A Lawyer's Guide to Disaster Planning*, ABA Special Committee on Disaster Response and Preparedness (Aug. 2011)
- "The 7 Deadly Sins of Succession Planning," Peter A. Giuliani, *Law Practice Magazine* (Nov./Dec. 2015)

Calendaring

- “How Automated Calendaring Can Limit Malpractice Risk,” Joshua Lenon, Blog Post on AttorneyAtWork.com (March 30, 2015)
- “Legal Calendaring: What You Don’t Know Can Hurt You,” Joseph C. Scott, *Law Practice* (March 2016)

Client Satisfaction Surveys — Examples

- Reese Law Office — Client Satisfaction Survey (<http://reeselawoffice.com/client-survey.html>)
- Jeffrey Freedman Attorneys, PLLC — Client Satisfaction Survey (www.jeffreyfreedman.com/client-satisfaction-survey)
- Kuck Immigration Partners LLC — Client Service Survey (www.surveymonkey.com)

Data Security

- “What Will You Do When Your Law Firm Is Breached?,” Sharon D. Nelson & John W. Simek, *Law Practice Magazine* (Nov./Dec. 2015)
- Cyber Security Checklist, ALPS Property and Casualty Insurance Company

Document Automation

- “Document Automation Choices: Buy or Build?,” Marc Lauritsen, Blog Post on AttorneyAtWork.com (Dec. 15, 2015)
- “Choosing a Document Automation System,” Marc Lauritsen, Blog Post on AttorneyAtWork.com (Nov. 18, 2015)
- “Today’s Tech: How A Business Lawyer Uses Document Automation In His Practice,” Nicole Black, *Above the Law* (May 7, 2015)

Law Practice Management & Technology

- “Webinar Recap: Top 10 Law Practice Management Tips for 2016,” Chad Sands, Blog Post on MyCase.com (Feb. 25, 2016)
- “Investing Wisely: 5 Tips for Purchasing Technology,” Joshua Poje, *YourABA* (May 2014)
- “The Long Line: Essential Software for the Modern Law Practice,” Jared Correia, Blog Post on AttorneyAtWork.com (Feb. 2, 2016)
- “50 Web Resources for the Suddenly Solo Lawyer,” Jim Calloway and Allison C. Shields, *Law Practice Today* (April 2012)
- “4 Steps to Getting Serious About Law Firm Cybersecurity,” Joseph Burton, *ABA Law Practice Today* (September 2014)
- “Thinking Small about Legal Tech,” David Perla, *ABA Law Practice Today* (April 2016)
- AttorneyAtWork.com
- myShingle.com

- “Solo and Small Firm Technology,” Richard Ferguson, *ABA TechReport* (2015)
- “Efficiency Killer in Your Law Firm,” Rosemary Kupfert, Blog Post at AttorneyWork.com (Dec. 4, 2015)
- “Six Tips to Take Charge of Your Own Economy,” Cynthia Sharp, *GP Solo* (Jan./Feb. 2013)
- *The Alps Guide to: Minding Your Law Firm Technology*, Mark Bassingthwaighte (2015)

Project Management

- “Building Bridges with Clients in Mind,” Tom Bolt, *Law Practice Magazine* (Nov./Dec. 2015)

Running a Law Firm

- “Opening a Small Firm — How to Survive the First Three Years,” Branigan Robertson, DBA-YLD Blog Post (Nov. 2, 2015)

Websites

- ABA Law Technology Resource Center — FYI: Starting a Website, www.americanbar.org
- “How to Design the Best Law Firm Website,” Mike Ramsey, Blog Post on AttorneyAtWork.com (Sept. 11, 2013)

Authorities

Colorado Rules of Professional Conduct

- Colo. RPC 1.4, Communication
- Colo. RPC 1.6, Confidentiality of Information
- Colo. RPC 1.16A, Client File Retention
- Colo. RPC 8.4, Misconduct

Colorado Ethics Opinions

- CBA Ethics Committee Formal Opinion 90, Preservation of Client Confidences in View of Modern Communications Technology
- CBA Ethics Committee Formal Opinion 119, Disclosure, Review, and Use of Metadata
- CBA Ethics Committee Formal Opinion 127, Use of Social Media for Investigative Purposes

American Bar Association Ethics Opinions

- ABA Formal Ethics Opinion 11-459, Duty to Protect Confidentiality of E-Mail Communications with One's Client
- ABA Formal Ethics Opinion 10-457, Lawyer Websites
- ABA Formal Ethics Opinion 08-451, Lawyer's Obligations When Outsourcing Legal and Nonlegal Support Services
- ABA Formal Ethics Opinion 06-442, Review and Use of Metadata
- ABA Formal Ethics Opinion 99-413, Protecting the Confidentiality of Unencrypted E-Mail
- ABA Formal Ethics Opinion 95-398, Access of Nonlawyers to a Lawyer's Data Base

TIPS

1. Dedicate time or hire a technology compliance officer to oversee technology, including security.
2. Keep hardware and software up to date, including updating patches and antivirus software. Remove the human element and set backups to be done automatically.
3. If using an "open" or "wifi" network, make sure steps are taken to protect the confidentiality of client information. Colo. RPC 1.6.
4. Develop office policy with regard to technology security, such as use of personal devices, Internet usage for non-work-related use, etc.
5. Do you have a disaster recovery plan in place for electronic files?
6. Keep in mind file retention requirements under Colo. RPC 1.16A.
7. Create email-use policies for staff to ensure effective communication and confidentiality. Colo. RPC 1.4, 1.6.
8. Consider document automation to make your life easier.
9. Consider purchasing cyber liability insurance.
10. Make sure you have a metadata scrubber and use it to avoid any inadvertent disclosures. CBA Ethics Opinion 119 — Disclosure, Review and Use of Metadata; ABA Formal Ethics Opinion — Review and Use of Metadata.

