

Go Paperless Speaker's Presentation Notes

Introduction

Who am I and why am I qualified to talk about paperlessness?

I am a lawyer in Seattle practicing primarily in the areas of estate planning, probate, and business transactions. I used to litigate a lot, but not so much anymore.

I have been paperless for 3 years, and I'm a technology geek.

Sometimes other lawyers hire me to help them with IT and technology projects for their firms.

Roadmap and Audience Input

Are there any topics not shown here that you were hoping I would talk about?

What is a paperless office?

What it is

Adopting procedures and technology to support a firm-wide requirement of working with information in digital rather than paper format whenever doing so improves the firm's efficiency

A policy for handling information digitally

What it isn't

The complete elimination of paper from your law office

An easy fix for the chaos that emerges with undisciplined paper file management

Benefits of Going Paperless

The four biggest, most obvious benefits are improvements to **mobility, security, cost, and efficiency**. An incidental benefit is that being paperless puts your firm in position to take advantage of **many technology improvements**.

Mobility

Paperlessness gives lawyers access to all the law firm's information and client files from anywhere with an internet connection, 24/7/365

Security

Against loss/destruction of data

Paperlessness done properly is a significant improvement over paper for reducing the risk of loss/destruction of law firm data. Be back up and running in *minutes* despite:

- Fire, flood, earthquake, storm
- Theft or burglary
- Accidentally misplacing a document

Example: The big quake hits and flooding makes all of Seattle west of I-5 inaccessible by car for 6 weeks.

Example: You show up to work on Monday morning and find your office has been cleaned out. Everything is gone.

Against unintentional disclosure of data

Paperlessness done properly protects your client's information from unintended disclosure, for example:

- Office break-ins or casual theft
- Document messengers
- Intercepted mail

Example: The post office delivers a letter from you to your client's neighbor by mistake. Neither you nor your client knows where the mail went.

Example: Your office's cleaning staff is a friend of an opposing party. During his late night shift, he pulls out the file, takes some pictures for his friend, and puts it back.

Against risks introduced by the use of computers and the internet

Paperlessness done properly protects against risks any lawyer who uses a computer connected to the internet would face

- Equipment failure — computer crashes, hard drive failure
- Ransomware, viruses
- Accidentally misplacing or theft of a computer

Example: Your hard drive dies on the eve of trial. That's when hard drives die. You saved the trial brief you were working on just a few minutes ago, but the hard drive is a complete loss.

Cost

Apart from the up-front costs to get started, paperlessness is significantly less costly than creating, storing, modifying, securing, sending, and destroying paper.

Example: You're in your first year of practice. You are excited because you signed 15 new clients in the first 6 months. So far, you have only needed one shelf on a single filing cabinet to hold the files. What's the big deal?

Example: You inherited your law firm from your mother who inherited it from her father. You are paying \$500 every month to warehouse a half-century of paper. You're afraid to throw any of it away since you've needed to reach back into those files once every once in a while. It's not in your budget to pay anyone to sort through it, keep what must be on paper, and scan or destroy the rest of it. You don't have the time to do it yourself.

Efficiency

Once lawyers and legal staff learn paperless practices, software, and equipment, they can operate with *orders of magnitude* greater efficiency than they could using paper.

Example: On the eve of trial, you need to find every mention of the word "privileged" in 5,000 pages of discovery and deposition transcripts. The phrase is probably only used a handful of times, but you need to find all of them.

Example: There are 15 parties in a TEDRA litigation, all of whom have agreed to accept service electronically. You find yourself needing to give notice of proceedings to these parties several times a week.

Example: You decide to work from home. A client calls with an urgent question about some information in the client's file. The paper file is at the office a few miles away.

Example: You're a solo, and you'd like to take a vacation for two weeks to Nepal. You have a coverage attorney for emergencies, but you might pack a few bags of client files just to be safe.

Being Paperless Opens the Doors to Other Technology Improvements

Paperlessness is a gateway for replacing existing firm processes with digital improvements

- Calendaring
- Task management
- Time keeping
- Billing
- Online payments
- Communicating online instead of with letters
- Secure document sharing

Paperlessness is required to extend many capabilities of your firm

- Document automation
- E-discovery
- Encrypted communications
- Realtime collaboration editing a document

Once your law firm is paperless, you will be in position to more quickly adopt new law firm technologies as they emerge.

Major Objections to Paperlessness

Objection

Response

It isn't possible to get rid of all paper in a law firm.

You can (and should) get rid of all the paper that doesn't make your law firm more efficient.

The court requires me to file documents in paper form and to bring paper copies of exhibits.

Print out a copy of whatever you are required to submit in paper form. Bring paper exhibits to trial if it's required (but also bring your laptop/tablet).

It will take forever to get all my paper files scanned.

Don't scan your old files. Start with new files and only scan going forward. Only scan old files if you find time for it. (You probably won't.)

I don't have time to scan every piece of paper that enters my office.

You would probably need to make a photocopy of every piece of paper in a client file at some point anyway. Scanning just frontloads that work.

I prefer reading on paper.

If you must, print or keep a paper copy of what you want to read on paper, but treat the paper version as a working/disposable copy. To make reading on the screen more comfortable, consider using an e-reader that uses e-paper, and learn how to adjust font sizes and screen brightness on your devices.

What other objections do you have?

Digital Files vs. Paper Files

Why Paper Is Better

Paper...

is intuitive, tactile, WYSIWYG
cannot be hacked
can be impressive
can be intimidating
doesn't suddenly become unusable when a software vendor changes their software

Digital files...

feel ephemeral (but aren't)
can be hacked (if not handled properly)
are full of traps for the untrained (like metadata)
take practice to use efficiently
require occasional updates to software and hardware

Why Digital Is Better

Paper...

deteriorates
is highly flammable
cannot be encrypted
cannot be instantly searched
cannot be automated
can only be accessed in one place
cannot be shared with a remote team
gets more expensive to store as it accumulates
requires messengers and mail
requires toner and kills trees
clients usually don't want it

Digital files...

remain pristine
can be backed up
can be encrypted
can be instantly searched
can be automated
can be accessed from anywhere
can be shared with anyone
can be stored for free or at minimal expense
can be emailed, e-filed, or shared in the cloud
are free to duplicate
clients usually prefer them

Overview of the Steps to Going Paperless

1. Design firm-wide policies for a paperless workflow.
2. Make sure everyone in the firm agrees to follow the new policies.
3. Obtain, install, and configure the necessary equipment and software.
4. Make sure everyone knows how to use the equipment and everyone follows the policies.
5. Measure the improvements to your law firm's efficiency.

Designing a Paperless Workflow

Having a successful paperless practice means having office procedures for managing digital information, just as a non-paperless firm has for managing its paper. You should create procedures for converting paper into digital information, as well as how to process the digital information once you have it.

A Set of Rules for What to Do with Paper

You need to establish a system of rules for how people in your firm handle the paper that comes into the office. Every law firm will handle this differently. These are best practices:

- **Capture all incoming paper.** Ideally, your system should convert all incoming paper into digital format, except paper that has no value and can be immediately discarded, like junk mail. Have an inbox where all incoming paper goes, no exceptions.
- **Scan immediately.** Scan everything immediately, preferably the day it is received. If you don't have time to review and file a document right away, you can store newly scanned documents in a digital inbox for sorting later.
- **Know what paper to keep.** Some paper, like original wills, client affidavits, and death certificates, must be preserved. Make sure your rules are clear on what papers to keep. Keep using a paper filing system, but only for documents you are required to keep in paper format.
- **Process paper that requires something more.** Keep paper that needs further processing, such as checks that need to be endorsed and deposited or contracts that require a signature — but once it is done being processed, it is either delivered somewhere outside your office, filed (but only if you're required to keep it), or destroyed.
- **Give originals back to clients.** When clients want their original records, give them back immediately after scanning. Don't store your clients' paper if you don't need it. Let clients know that you'll shred paper left at your office and that they should take back anything they want to keep.
- **Discard the paper after it is scanned.** All paper that you are not required to keep or return to the client should be discarded after scanning. Shred it. Recycle.

A Set of Rules for Managing Digital Information

You should create rules that require your law firm to be as organized with digital information as it would be with paper files. The same logic applies when organizing digital information as with paper.

Processing Digital Files

When paper arrives in the office, usually it means you need to *do something* with it other than just filing it. Your rules should ensure that whatever is required beyond mere filing actually gets done.

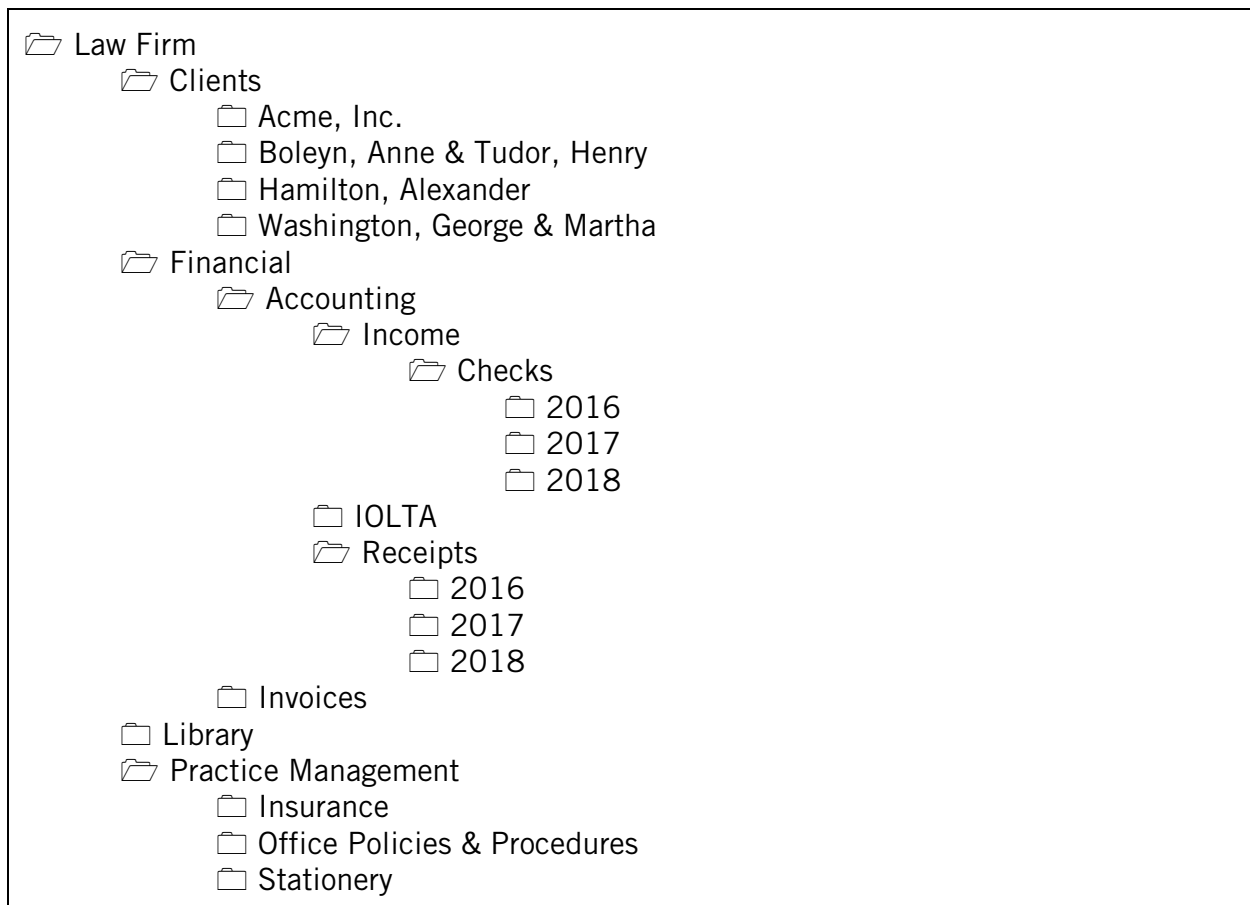
Example: When processing a letter received about a client matter, file the correspondence in the client's "Correspondence" folder and notify the lawyer assigned to the case that there is new correspondence in the matter to review, and provide the filename.

Example: When processing a trust deposit by check, file a copy of the check in the firm's "IOLTA/Check Copies/" folder under the appropriate subfolder for the year (e.g., "2018"), then deposit and record the check in the firm's client and trust ledgers.

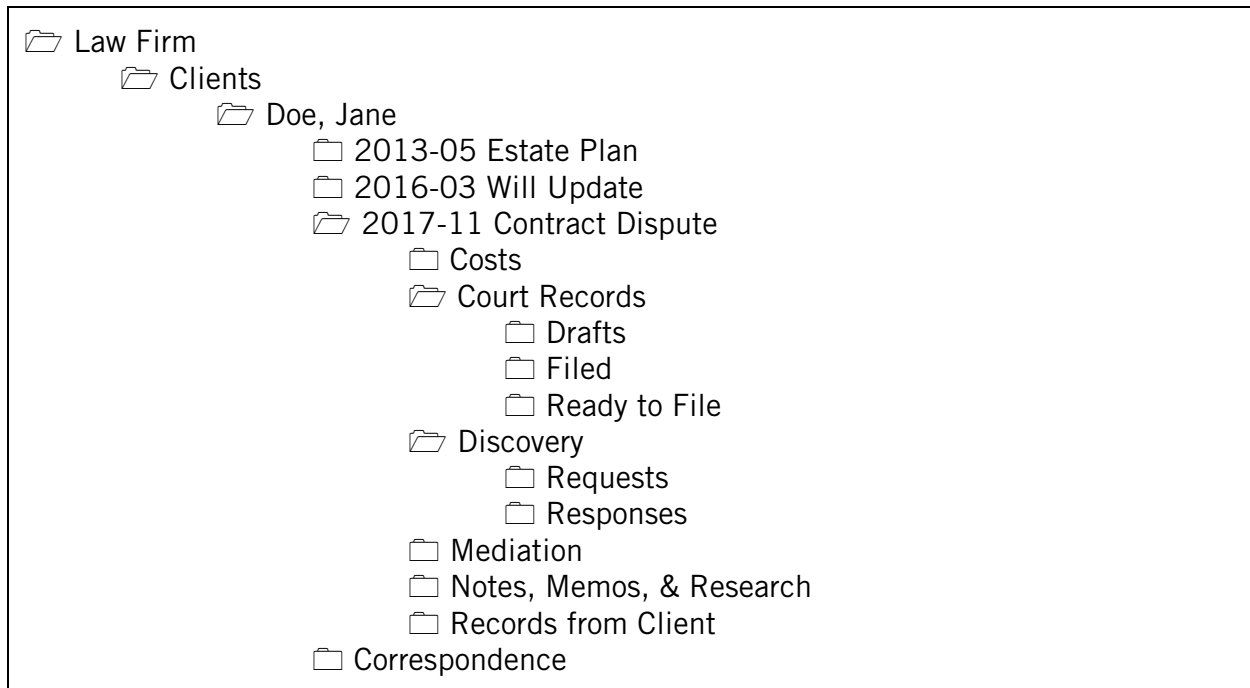
Folder Organization

Digital files can be organized in much the same way as paper files. A digital folder with subfolders and sub-subfolders is like a filing cabinet with drawers with folders in them. There is no one right way of organizing law firm folders, but here are some ideas:

Primary Folder Structure



Example of a Client Folder with Multiple Matters



File Naming

Nearly every document has a primary date associated with it, generally the date it was created, filed, or sent. Naming files so the operating system sorts them chronologically by primary date makes them very easy to find. Use this format:

yyyy-mm-dd description.pdf

Start with the year, followed by the month, then the day, then a brief yet useful description of the file. For example:

2018-01-10 KCBA Presentation.pdf

Starting with the year ensures all the files in a folder are automatically displayed in chronological order, whereas starting with the month would group all files from every month together, regardless of their years.

For common document types, it can help save time to adopt obvious shorthand abbreviations for file descriptions. Here are some examples:

C, Cs	Client, Clients	OP	Opposing Party
D	Defendant	P	Plaintiff
DEL	Disengagement Letter	1RFA	First Requests for Admissions
EL	Engagement Letter	2RFP	Second Requests for Production
L	Letter	2ROG	Second Interrogatories

These types of abbreviations can allow a lot of valuable information to be included in a short file description, for example:

2018-01-09 D Jones 1RFA to P Smith.pdf
2018-01-10 L from OP to Cs.pdf

Record Retention (Information Hygiene)

Whether or not your law firm is paperless, you should adopt rules for when to stop storing information and adhere to those rules. Even though storing files digitally significantly decreases your footprint, it's still good to stop being responsible for storing information after a reasonable number of years have passed.

Onboarding Everyone in the Firm

Whatever rules, policies, and procedures you adopt for a paperless workflow, it is imperative that every person in the firm cooperate and abide by them. Just like in a non-paperless office, when documents are misnamed or improperly filed, or when they are not processed as required, the consequences can be heavy and can make the job frustrating for everyone else.

Talk with everyone in the firm. Make sure there is unanimous agreement.

Necessary Equipment and Software

- **must-have equipment:** computer, printer, scanner, shredder
- **must-have software:** Acrobat/alternative, virtual private network, storage (cloud/other)
- **nice-to-have software:** internet fax, encryption at rest

Equipment (must-have)

Computer

You'll need a computer capable of running a modern operating system to go paperless, both for the sake of efficiency and security.

Printer

Yes, your paperless office still needs to print documents on occasion. The good news is you can ditch your photocopier because a scanner and a printer replace the work of a photocopier.

Recommendation: Skip the all-in-one printer/scanner/fax machines. They take up a lot of space and don't do any of their jobs particularly well. Go for a standalone laser printer.

Scanner

There is only one scanner worth mentioning. Get a **Fujitsu ScanSnap iX500**. It's small. It holds 50 sheets of paper. It's fast (25 double-sided pages per minute). Unlike other scanners of comparable quality, this one comes with scanning software that works seamlessly and is easy to use. It also comes with PDF software (see the next section).

The Fujitsu ScanSnap iX500 costs about \$430 at Amazon.

Shredder

You'll be discarding a lot of paper containing sensitive data. You'll need a shredder or a contract with a shredding service.

Software (must-have)

A modern operating system

Having a modern operating system—for most people that means the latest Windows or MacOS—is essential for keeping electronic files secure and for working with electronic files efficiently.

PDF Software

All scanned paper will be digitized in PDF format. You will need to manipulate PDF files in a variety of ways, including:

- optical character recognition (OCR), which enables searching the text of the PDF
- adding text and signatures
- editing text
- adding, rotating, and removing pages
- combining separate PDFs into one PDF

- highlighting and bookmarking
- bates numbering
- password-protection
- redacting

Adobe Acrobat Pro is capable of all of the above and costs \$14.99/month.

Adobe Acrobat Standard cannot redact or add bates numbering and costs \$12.99/month.

Nuance's Power PDF Advanced is comparable to Acrobat Pro and costs \$149.99.

Nuance's Power PDF Standard is comparable to Acrobat Standard and costs \$99.99.

Virtual Private Network (VPN)

Mobility is one of the greatest benefits of going paperless. Yet, it is inherently insecure to connect to the internet over shared or public wi-fi, such as that found in coffee shops, hotel rooms, and airports. Sometimes even home or work wi-fi networks can be compromised. Using a properly configured VPN encrypts the traffic your computer sends and receives over the wi-fi connection and greatly reduces the risks of using shared wi-fi.

There are two options when setting up a VPN.

1. You can configure your own free VPN using an installation of OpenVPN on a private server that you control (recommended—but get help if you don't know how to do this), or
2. You can pay a commercial VPN provider.

The first option requires several technically challenging steps, but its only cost is the expense of having access to a private server. The second option is usually easy to set up, but is more expensive and requires careful consideration of the security practices of the VPN provider.

See the comparison chart of 181 different VPN providers found at That One Privacy Site (<https://thatoneprivacysite.net/vpn-comparison-chart/>).

Storage

Having a secure paperless practice requires your digital files to be backed up somewhere other than on your computer. Having a mobile paperless practice requires you to store data in the cloud. You have many affordable options, each of which offers a slightly different experience.

1. Configure your own file sync and backup system on a private *offsite* server that you control. Like setting up your own VPN, this requires several technically challenging steps.

2. Use a commercial cloud storage provider, such as Google Drive, Dropbox, Box, Microsoft OneDrive, etc. This requires consideration of costs and the security practices of the cloud storage provider. For greater security, even when using these companies, see Encryption at Rest, below.

Recommendation: Don't rely on an external hard drive, an onsite server, or a network attached storage (NAS) as your exclusive storage and backup system. They defeat the mobility benefit of paperlessness, and they won't protect you if the data loss is due to an onsite emergency.

Software (nice-to-have)

Internet Fax

Fax machines require a lot of paper—paper that you'll need to scan and shred. Internet fax services send PDFs as faxes and convert incoming faxes into PDFs. Internet fax services eliminate the need for a fax machine and the wasted paper faxes produce.

Encryption at Rest

Data that is not encrypted where it is stored is especially vulnerable. Anybody who manages to access the unencrypted data can read it.

Example: Your hard drive containing your law firm files fails, so you throw it away. The content of the hard drive was not encrypted. Someone finds the hard drive and manages to get it working again, gaining access to all your client files.

Data that is encrypted where it is stored (encrypted at rest) cannot be read.

Example: A burglar steals a laptop containing copies of your law firm files, but your hard drive was encrypted. Unless the burglar can guess your password, the burglar will see only gibberish when trying to access the files on the hard drive.

If your device runs on macOS, Chrome OS, iOS, or Android, full disk encryption is available as part of the operating system. Full disk encryption using BitLocker is also a feature for users of Microsoft Windows 10 Professional, Enterprise, and Education editions. Some Windows 8.1 and Windows 10 Home devices ship with disk encryption, but not all. If your Windows device does not come with disk encryption, you should seriously consider upgrading to Windows 10 Professional.

Fortunately, most cloud storage providers encrypt your data automatically before saving it in the cloud.

Example: A hacker steals 50 terabytes of data from your cloud storage provider, including all your law firm files. Your cloud storage provider encrypts all data before storing it. The hacker will be unable to read your law firm files.

Although cloud providers proclaim they encrypt your data, they hold the key to that data, and they can probably access it. A handful of tools are available that enable you to encrypt your data *before* handing it over to the cloud storage provider, which means even the cloud storage provider cannot access the data. Here are possible encryption tools:

- Boxcryptor (ongoing payment required) (www.boxcryptor.com)
- Cryptomator (pay-what-you-want) (cryptomator.org)

Security and Ethics

RPC 1.6(c) states:

A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Comment 18, under the heading “Acting Competently to Preserve Confidentiality” states:

Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer’s supervision... The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer’s efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer’s ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use)...

Following through — Training and Enforcing the Policies

Going paperless requires cooperation and understanding by every person at the firm. Make sure to provide training for everyone (including for yourself) on all the procedures and tools that are required to be paperless.

Most importantly, follow the paperless workflow policies.

Measure the Improvements to Your Law Firm's Efficiency

After a few months of paperlessness, see how well your firm is performing the tasks that used to be handled on paper. If possible, compare how efficient you are after a few months with how efficient you were before going paperless.

Handling Technical Challenges

Many of the steps to going paperless present technical challenges which could stop the process short unless someone with technology expertise steps in to help, whether in installing and configuring hardware and software, in training you and your staff, or both. While there is a cost to hiring a technologist, the payoffs of being paperless are significant and likely to be well worth the investment.

Questions

I can be reached with questions about paperlessness, practice management, and legal technology after today's seminar at forrest@assemblelaw.com.