

Legal Records Managers: Ready for Electronic Prime Time?

Legal records managers working for firms that still rely on paper information systems must take the lead to move their firms into the electronic age.

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When lawyers began using desktop computers in the early 1990s, some predicted they would be the first group to migrate from paper- to electronic-based information systems. Contrary to the prediction, the legal profession is likely still further from achieving a paperless system than are their corporate clients, perhaps because many lawyers are not yet comfortable with a completely electronic system. Therefore, law firms today continue to maintain two separate work-product systems: paper and electronic.

The Current Information System

Law firm information is currently organized in a client-matter-folder hierarchical system. First, each client is assigned a unique number, usually the next-available number in a client num-

bering series. Then, typically, each project, or matter, a lawyer performs for the client is sequentially assigned to the client's number. Together they are collectively referred to as the client-matter number. Finally, law firms will assign numbers to the various folders they create for each matter. The folder numbering system varies widely among law firms.

Within this system, lawyers generally consider the paper file the official record

for their clients and the electronic systems as their own work-in-progress systems. Whenever lawyers accumulate paper documents in their offices it becomes obvious that documents are not making their way into the file. Unfiled e-mails are less obvious. Although the policy for many firms is for e-mails to be printed and the hard copy filed, unless the attorneys or their secretaries are working overtime to print them out, they mostly reside in each attorney's personal folders in the e-mail system. Therefore, at no particular time can it be said that there is a complete file of a matter's documents in either system, paper or electronic.

Law firms are trying to address the e-mail filing problem in one of three ways:

1. Filing e-mails into a document management system (DMS)
2. Filing e-mails into a records management system (RMS)

At the Core

This article

- ▶ Describes the current state of information systems in law firms
- ▶ Summarizes ways to transition from paper- to electronic-based systems
- ▶ Provides ways legal records managers can prepare for the transition to an information system without paper

With all due respect, neither lawyers nor IT people are good records managers. The only personnel in law firms with sufficient experience for organizing lawyer information are records managers, and they must lead the way for electronic systems...

3. Filing e-mails first into the DMS then declaring them as records into an RMS

However, each of these systems has its drawbacks:

- Filing e-mails into a work-in-progress DMS makes it harder to separate the wheat from the chaff. A DMS contains non-work product as well as work product. A DMS is not a content management system and does not have records retention functionality.
- Filing e-mails into an RMS ensures that the e-mail is automatically declared as a record and has full records-retention functionality. However, the RMS is probably a separate repository, and that action means documents for a particular matter are filed in two separate systems, the DMS and RMS.
- Filing documents first into the DMS ensures that e-mails become part of the work-in-progress system and all attorneys can view the documents. But requiring attorneys or their secretaries to take the second step of declaring a record into an RMS will not make doing so a high priority for them.

The ideal system would be to have all documents and physical files available in one repository throughout the matter life cycle until paper systems are eventually

phased out. The final step is to transition to an all-electronic information system.

Achieving an Electronic System

The following initiatives are prerequisite to achieving a workable electronic information system:

- Change how paper files are organized in each practice area unless the firm plans to phase out its paper-based system within the next three years. Currently, most law firms use document type naming conventions, where documents are filed by the type of document (e.g., letter, memo, fax, agreement) rather than by the content of the document itself.
- Most users do not search by document type. Therefore, folder title names should include the most unique information about the contents of a file. For example, a file containing research on a particular issue in litigation should be identified by the content of the research (e.g., Toxic Fume Releases). All documents related to this subject would also be included in this folder regardless of what type of document it is (e.g., e-mail, memo, fax).
- Establish identical categories for both the paper and electronic system. Having identical categories in both systems promotes consistency and

helps the user learn how the documents are organized. These categories will be different in each practice area, as patent law is different from healthcare law. In other words, avoid designing a one-size-fits-all category system. In addition, keep the folder hierarchy as shallow as possible (e.g., three tabs) because deep hierarchies eventually confuse everyone.

- Streamline the matter closing and records retention functions. Lawyers spend less time looking for the information they need when the information is current. Many matters remain open well beyond the time the work is completed. For most firms, records retention will be assigned at the matter level. If there is a records retention schedule, but it is not being followed, this would be the time to implement it. Constantly applying retention to attorney work product causes less frustration in search and retrieval of needed information.

Taking the Lead

With all due respect, neither lawyers nor IT people are good records managers. The only personnel in law firms with sufficient experience for organizing lawyer information are records managers, and they must lead the way for electronic systems just as they have for paper systems. Specifically, legal records managers should take the following initiatives:

- Get involved in the planning process for any electronic system upgrades the firm contemplates, not just the records management program. Risk management issues can occur at any stage of the matter life cycle, and participation regarding security and retention of these records – including conflicts, time and billing, calendar, litigation support, and others – are a necessity.
- Establish naming conventions for folders, document titles, and e-mail subject lines to facilitate information retrieval. Implement data entry standards to ensure consistency in how information is viewed.
- Assign qualified records personnel as database administrators for all electronic systems, not just the RMS, to ensure consistent information quality. Fortunately, this trend is already happening in some firms.

- Assume responsibility for classifying documents for filing, rather than merely filing the documents.

The Future of Legal Records Management

As long as there are parallel physical and electronic systems, the paper file system should prevail. But, inevitably, paper systems will become obsolete. That does not mean a firm will not need records management expertise; it just means that legal records personnel will be providing the same service in an electronic environment.

To prepare for this new responsibility, records personnel should know as

much about each practice area as any paralegal so they can take over the classification responsibility from secretaries. Ask the lawyers to prepare practice-area-overview training sessions for this purpose. Records personnel should also learn the business of their clients to better understand how lawyers help them. Finally, legal records managers should become knowledgeable regarding business process design, workflow, project management, and quality assurance principles.

Records management in law firms need not be limited to paper filing systems. Taking action now will prepare legal records managers for electronic prime time. ■

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