

## Our Mission

TO MAKE THE LIVES OF  
LAWYERS & PARALEGALS EASIER.

## How Do You Do Things Today?

Most attorneys are:

1. Tracking time on pen & paper.
2. Manually creating invoices in Microsoft Word.
3. Using Outlook to manage their emails & calendar.
4. Using Dropbox to share files.
5. Using a server or an old legacy software.

PRACTICEPANTHER

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## What Are You Looking For?

Most of our members are looking to:

1. Spend less time managing, and more time earning.
2. Go paperless.
3. Not miss deadlines for fear of a bar complaint.
4. Accurately manage their trust account.
5. Work from anywhere.

PRACTICEPANTHER

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## What can I do with it?

- |   |  |
|---|--|
|  Contact & Matter Management |  Time & Expense Tracking      |
|  Document Management         |  Calendar & Email Integration |
|  Secure Client Portal        |  Accept Online Payments       |
|  Legal Billing               |  Task & Event Workflows       |
|  Trust Accounting            |  Mobile Apps                  |
|  Team Chat                   |  Integrations / API           |





**Integrated with your favorite apps!**



 Gmail
  Outlook
  Office 365




 Exchange
  Calendar
  Quickbooks



 box
  Dropbox
  zapier

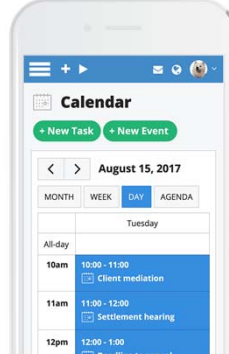
**PANTHERPAYMENTS**  
POWERED BY LAWPAY™

**iPhone, iPad, & Android apps.**

What makes our apps different?

-  Looks great on every screen size.
-  Unlimited access to all features.
-  Free automatic updates for life.








**PRACTICEPANTHER**

**We take security seriously.**

256-bit military encryption.  
Same protocols as online banks.



HIPAA Compliant.  
The safest place for your files.



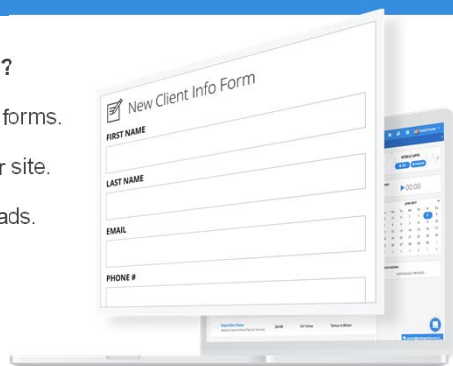
Powered By Box.com

**5 FEATURES TO  
GET MORE DONE  
IN LESS TIME**

## 1. Use Intake Forms On Your Website

### How It Works?

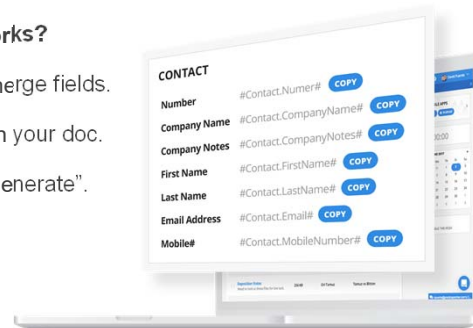
1. Create the forms.
2. Add to your site.
3. Receive leads.



## 2. Generate Documents In 1 Click

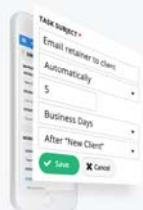
### How It Works?

1. Copy merge fields.
2. Paste in your doc.
3. Click "generate".



## 3. Task & Event Workflows

1



### Create a workflow.

Create a list of tasks and events you can use on any contact or matter in the future.

2



### Apply the workflow.

Apply the template in one click. Watch as the tasks and events get automatically created.

3



### Take a vacation!

With all this free time you now have, take a vacation! Go ahead, you earned it.

## 4. Get Automated Real-Time Alerts

### What alerts?

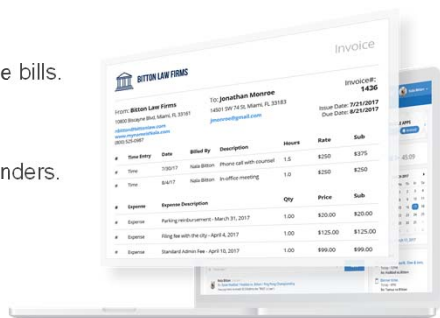
1. New intake filled
2. Invoice read
3. Payment made
4. New activity
5. Upcoming event



## 5. All Your Bills, In 1 Click

### Batch Billing:

1. Create multiple bills.
2. Send all.
3. Auto pay reminders.
4. Get paid!

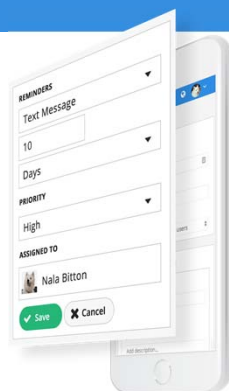


# DECREASE CLIENT NO- SHOW RATES WITH SMS ALERTS

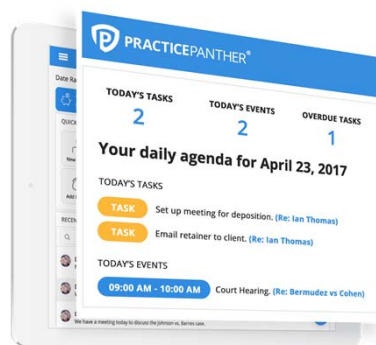
## Text Message Reminders

### Why to use SMS Alerts?

1. Decrease no-show rates
2. Never miss a deadline
3. Remind clients about court



## Automatic Daily Agenda At 6 Am



### What do you get?

1. Daily tasks
2. Daily events
3. Overdue items



**PANTHERPAYMENTS**  
Powered by LawPay

**GET PAID FASTER**

LawPay's \$20 monthly fee is now included with your PracticePanther membership!

LIMITED OFFER!

## What's Included?

1. 24/7 Access to work from anywhere, anytime
2. Dedicated account manager
3. Free import & migration
4. Free training & support
5. Automatic backups
6. Peace of mind!



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## 30 Day Panther Promise

We know you're going to love PracticePanther.

If you're not 100% happy in the first 30 days, just email us for your money back.

No questions asked.



## Promotion

**PLF Members of the OSBPLF  
Get 15% OFF for life!**

[www.practicepanther.com/sign-up](http://www.practicepanther.com/sign-up)

**1 (800) 856-8729**

Use promo code: **SBMN10PP**



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Questions?





# The CosmoLex Difference

Erica Birstler  
Director of Strategic Communications  
CosmoLex Cloud, LLC



[cosmolex.com](https://cosmolex.com)



# Managing Your Practice

- Legal Time & Billing
- Business Accounting
- Trust Accounting
- Calendar & Tasks
- Documents & Emails



# Typical Law Firm Setup

## Legacy Desktop Systems

- Missing Cloud Benefits
- Hardware/Server Requirements & Maintenance
- Lack of Modern Functionality

## Legal Cloud Solutions

- Require separate, generic accounting program
- Lack of standard compliance/operational accounting functions



# Isolated Billing & Accounting



# The CosmoLex Difference

- No Quickbooks™ required
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- Record invoice payments & income in one step
- Manage trust ledgers PLUS print checks, reconcile & generate reports to ensure OSB compliance
- Manage your full accounts payable
- Advanced accounting functions & reporting



# RUN YOUR ENTIRE PRACTICE ON COSMOLEX



# Thank You!

Erica Birstler  
CosmoLex Cloud, LLC  
ebirstler@cosmolex.com







Professional  
Liability Fund

# **Technology Fair PLUS CLEs: Efficiency & Productivity Solutions for Your Law Practice**

Learn about our Services & Resources  
for Oregon Lawyers



## MCLE FORM 1: Recordkeeping Form (Do Not Return This Form to the Bar)

### Instructions:

Pursuant to MCLE Rule 7.2, every active member shall maintain records of participation in **accredited** CLE activities. You may wish to use this form to record your CLE activities, attaching it to a copy of the program brochure or other information regarding the CLE activity.

**Do not return this form to the Oregon State Bar. This is to be retained in your own MCLE file.**

Name:		Bar Number:	
Sponsor of CLE Activity:			
Title of CLE Activity:		Program Number:	
Date:	Location:		
<input type="checkbox"/> <i>Activity has been accredited by the Oregon State Bar for the following credit:</i>  ____ General ____ Prof Resp-Ethics ____ Access to Justice ____ Abuse Reporting ____ Practical Skills ____ Pers. Mgmt/Bus. Dev.*	<input type="checkbox"/> <b>Full Credit.</b> <i>I attended the entire program and the total of authorized credits are:</i>  ____ General ____ Prof Resp-Ethics ____ Access to Justice ____ Abuse Reporting ____ Practical Skills ____ Pers. Mgmt/Bus. Dev.*	<input type="checkbox"/> <b>Partial Credit.</b> <i>I attended _____ hours of the program and am entitled to the following credits*:</i>  ____ General ____ Prof Resp-Ethics ____ Access to Justice ____ Abuse Reporting ____ Practical Skills ____ Pers. Mgmt/Bus. Dev.*	

### \*Credit Calculation:

One (1) MCLE credit may be claimed for each sixty (60) minutes of actual participation. Do not include registration, introductions, business meetings and programs less than 30 minutes. MCLE credits may not be claimed for any activity that has not been accredited by the MCLE Administrator. If the program has not been accredited by the MCLE Administrator, you must submit a Group CLE Activity Accreditation application (See MCLE Form 2.)

### Caveat:

If the actual program length is less than the credit hours approved, Bar members are responsible for making the appropriate adjustments in their compliance reports. Adjustments must also be made for late arrival, early departure or other periods of absence or non-participation.

\*Personal Management Assistance/Business Development. See MCLE Rule 5.12 and Regulation 5.300 for additional information regarding Category III activities. Maximum credit that may be claimed for Category III activities is 6.0 in a three-year reporting period and 3.0 in a short reporting period.

8:00	<b>EXHIBIT HALL OPENS – COLUMBIA ROOM B AND COLUMBIA LOBBY</b>
8:00 - 8:30	<b>REGISTRATION – MAIN LOBBY</b> <b>CONTINENTAL BREAKFAST – SANDY ROOM</b>
9:00 - 10:00	<b>CLE PRESENTATION – COLUMBIA ROOM A</b> <b>Practice Management Software Made Simple</b> What is practice management software, how does it help, and what are the differences between the programs? Rachel Edwards, PLF Practice Management Advisor      Larry Port, Rocket Matter Erica Birstler, CosmoLex      Emily van Siereveld, Clio Brian Gomez, PracticePanther
10:00 - 10:30	<b>TEST DRIVE LEGAL SOFTWARE PLUS – COLUMBIA ROOM B AND COLUMBIA LOBBY</b> Test drive legal software products and explore other law practice-related products and services.
10:30 - 11:00	<b>CLE PRESENTATIONS – COLUMBIA ROOM A</b> <b>Presentations on Legal Software</b> How to Keep Time Using Your Voice – Matthew Volm, Tali Email Encryption – Meet Your Firm's Security Needs with the Click of a Button – David Catalanotto, Trustifi
11:00 - 11:30	<b>TEST DRIVE LEGAL SOFTWARE PLUS – COLUMBIA ROOM B AND COLUMBIA LOBBY</b> Test drive legal software products and explore other law practice-related products and services.
11:30 - 12:30	<b>LUNCH AND CLE PRESENTATION – COLUMBIA ROOM A</b> <b>Practice Management Software – How Easy It Is!</b> How to utilize the general features of Cosmolex, PracticePanther, Rocket Matter, and Clio Erica Birstler, CosmoLex      Larry Port, Rocket Matter Brian Gomez, PracticePanther      Emily van Siereveld, Clio
12:30 - 1:00	<b>TEST DRIVE LEGAL SOFTWARE PLUS – COLUMBIA ROOM B AND COLUMBIA LOBBY</b> Test drive legal software products and explore other law practice-related products and services.
1:00 - 1:30	<b>CLE PRESENTATION – COLUMBIA ROOM A</b> <b>Presentations on Legal Software</b> Simplify Your Life by Automating Your Forms – R.W. Christensen, Jr., TheFormTool Improving Your Writing Without Any Effort – Caroline Engle, WordRake
1:30 - 2:00	<b>TEST DRIVE LEGAL SOFTWARE PLUS – COLUMBIA ROOM B AND COLUMBIA LOBBY</b> Test drive legal software products and explore other law practice-related products and services.
2:00 - 3:00	<b>CLE PRESENTATION – COLUMBIA ROOM A</b> Knowing Your Worth and Making Better Use of Your Time – A Report on Legal Trends Emily van Siereveld, Clio
3:00 - 4:00	<b>CLE PRESENTATION – COLUMBIA ROOM A</b> Staying Well and Thriving in the Legal Profession – Larry Port, Rocket Matter
4:00 - 5:00	<b>SOCIAL HOUR AND REFRESHMENTS</b>

# Participating Vendors

**Advanced Legal** – Cloud solutions provider

**Alicia Pollock** – QuickBooks consultant

**Clio** – Practice management software

**CosmoLex** – Practice management software

**Data Safe** – Document storage and destruction

**DaVinci Digital** – IT services

**Fastcase** – Legal research software

**Microsoft Office** – Productivity software

**MyPleadings** – Document automation software

**PracticePanther** – Practice management software

**Rocket Matter** – Practice management software

**Ruby Receptionists** – Virtual receptionists

**Tali** – Timekeeping software

**TheFormTool** – Document automation software

**Trustifi** – Email encryption software

**WordRake** – Editing software

**Worldox** – Document management software

**PLF Practice Management Advisors** – Free and confidential practice management assistance

## *Thanks to Our Sponsors!*

DaVinci Digital

Fujitsu

Multnomah Bar Association

MyPleadings

Oregon New Lawyers Division

OSB Solo and Small Firm Section

PracticePanther

Ruby Receptionists

Tali

WordRake

Worldox

## Enter Our Drawings!

ScanSnap ix100A – a mobile and wireless scanner for personal or office use

*Thank you, Fujitsu!*

Wordrake editing software licenses

*Thank you, WordRake!*

Echo Dot


*Thank you, PracticePanther*

Entries for all drawings can be found at the registration table.



## The CosmoLex Difference

Erica Birstler  
Director of Strategic Communications  
CosmoLex Cloud, LLC



**CosmoLex**

cosmolex.com

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## Managing Your Practice

- Legal Time & Billing
- Business Accounting
- Trust Accounting
- Calendar & Tasks
- Documents & Emails



**CosmoLex**

cosmolex.com

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## Typical Law Firm Setup

Legacy Desktop Systems	Legal Cloud Solutions
<ul style="list-style-type: none"> <li>• Missing Cloud Benefits</li> <li>• Hardware/Server Requirements &amp; Maintenance</li> <li>• Lack of Modern Functionality</li> </ul>	<ul style="list-style-type: none"> <li>• Require separate, generic accounting program</li> <li>• Lack of standard compliance/operational accounting functions</li> </ul>

**CosmoLex**

cosmolex.com

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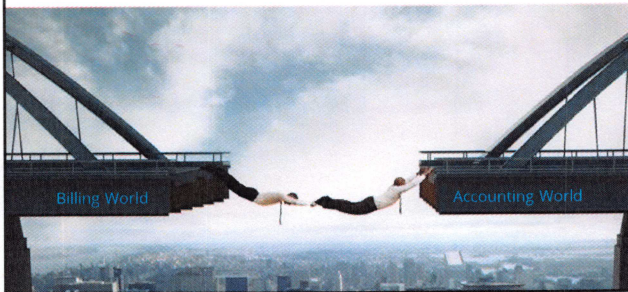
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## Isolated Billing & Accounting



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## The CosmoLex Difference

- No Quickbooks™ required
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**CosmoLex**

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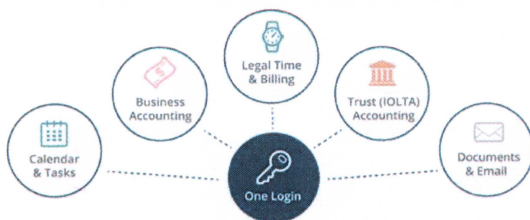
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## RUN YOUR ENTIRE PRACTICE ON COSMOLEX



slide 6

**CosmoLex**

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Thank You!

Erica Birstler  
CosmoLex Cloud, LLC  
ebirstler@cosmolex.com



slide 7

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# Military Grade Email Encryption MADE EASY

**The Trustifi Solution**  
**September, 26 2018**

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TRUSTIFI

## PRESENTATION SUMMARY

- Who is Trustifi
- Defining Email Encryption
- Demo

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## TRUSTIFI KEY FEATURES

Trustifi is a Software as a Service (SaaS) Company offering a unique email encryption service with advanced features and a user friendly experience.

- EASY-TO-USE
  - EXCEEDS COMPLIANCE & POLICY ENFORCEMENTS
  - EMAIL SECURITY & PROTECT
  - UNCOMPROMISED PROOF OF DELIVERY
- MILITARY GRADE ENCRYPTION
  - PROTECTION AGAINST BREACHING
  - INCOMING EMAIL AUTHENTICATION
  - RECOVERABLE & UNRECOVERABLE
  - EMAIL TRANSMISSION & VISIBILITY
  - GDPR & HIPAA COMPLIANT
  - PLUS MUCH MORE

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TRUSTIFI  
KEY  
BENEFITS

COMPLIANCE



Trustifi enables Compliance & Policy Enforcement for Legal, Healthcare, and Financial companies.

✓ HIPAA

✓ GDPR

✓ FINRA

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TRUSTIFI  
KEY  
BENEFITS

BEST-IN-CLASS CYBER SECURITY



Trustifi protects sensitive data leaving your organization.

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TRUSTIFI  
KEY  
BENEFITS

BEST-IN-CLASS CYBER SECURITY



Trustifi protects your organization from malware/phishing/ransomware schemes via incoming email.

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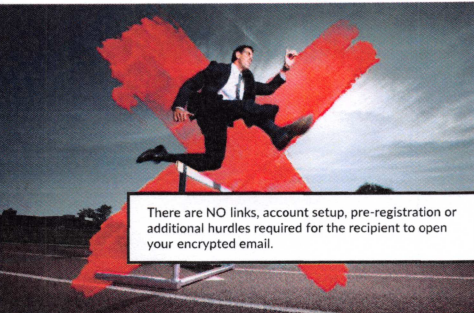
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**TRUSTIFI**  
**KEY**  
**BENEFITS**

EASE OF USE - NO HURDLES



There are NO links, account setup, pre-registration or additional hurdles required for the recipient to open your encrypted email.

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**DEFINING**  
**EMAIL**  
**ENCRYPTION**

THE TRUSTIFI SOLUTION

September, 26 2018



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**EMAIL**  
**ENCRYPTION**



A method for safely transmitting electronic data over the internet and making the data not recognizable while it is being transmitted.

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**EMAIL  
ENCRYPTION**



**TWO TYPES**

- ✓ Encrypt the tunnel (good)
- ✓ Encrypt the message & attachments (best)

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**EMAIL  
ENCRYPTION**



Only the sender and recipient have access to email data and attachments.

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**DEMONSTRATION**

**THE  
TRUSTIFI  
SOLUTION**

September, 26 2018



**Trustifi**

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**THANK  
You!**

**David Catalanotto**  
Senior Account Executive




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 617-799-7689

 dcatalanotto@trustificorp.com

 1655 Village Center Cir., #160  
Las Vegas, NV 89134

 [www.trustifi.com](http://www.trustifi.com)

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# WORDRAKE®

## EDITING SOFTWARE FOR THE LEGAL PROFESSION

WordRake software instantly edits reports, briefs, contracts, letters, and memoranda for clearer, more concise writing, saving you time and money. With an add-in to Microsoft Word and another for Outlook, WordRake software:

- Edits a 5-page document in 30 seconds
- Costs less than 20 billable minutes per year

Lawyer and WordRake creator Gary Kinder has taught over 1000 writing programs for the ABA and firms such as Jones Day, WilmerHale, Latham & Watkins, and Sidley. He is also author of *New York Times* bestseller *Ship of Gold in the Deep Blue Sea*.

"Wordrake provides a quick, easy way to do a final scrub of my e-mails and Word documents to ensure they are clear and concise. It is an intuitive tool usable within five minutes of installation. I use it every day."

- Pam Satterfield  
Director of Support Services  
Shook, Hardy & Bacon

"I was dumbfounded when the software quickly provided an embarrassing number of edits of my 6 page article, more than 90% of which I agreed with; even my editors missed most of what WordRake found."

- Shari Nelson  
President,  
Sensei Enterprises

WordRake software identifies words and phrases with no meaning, suggests changes the writer can accept or reject, gives the writer confidence, and teaches better writing habits as it edits.

Thousands of law offices, legal departments, government agencies, and businesses rely on WordRake.

"WordRake is one of the nice things we deal with here in IT. It's so easy. We don't get questions about it. They just use it. Unlike other software we have, it runs itself.."

- Evan Shenkman  
Senior Manager, KMCounsel & Research,  
Ogletree, Deakins, Nash, Smoak, & Stewart

"WordRake is my favorite software of all time."

- Randi Mayes  
Former Executive Director,  
ILTA

"My subject is how to make contracts clearer, and over fifteen years I've written books, dozens of articles, and umpteen blog posts about it, so I like to think I'm no slouch as a prose stylist. But the more you write and the higher your standards, the more you realize that you're fallible. I now regard WordRake as another line of defense."

- Ken Adams  
Author,  
*A Manual of Style for Contract Drafting*

For more information, a 7-day free trial,  
or to purchase, visit  
[WORDRAKE.COM](http://WORDRAKE.COM).

# WORDRAKE®

Write **simply** to the point.

# MANAGING YOUR PRACTICE

## Factors to Consider Before Committing to Software

### Avoid Feeling Trapped

By Rachel M. Edwards



Attorneys use software programs to assist with a variety of issues, ranging from conflict-checking to document management. With the multitude of software programs available, it can be difficult to choose the right one for your practice. Yet a decision made too quickly with little to no research beforehand can be costly.

The typical scenario: After receiving a recommendation from a colleague, the firm purchases a software program, such as an online data storage provider or practice management software, with no additional inquiry and no test run. Soon after, it becomes apparent that the program is not the right fit. Anyone who has made the transition into or out of any software program knows the challenges involved. For example, there are nonrefundable costs, not only as part of the purchase price but also in hours spent by attorneys and staff learning a new program. There may be issues with migration and extrac-

tion of client and firm data, such as lost or damaged data or terms of service by the vendor placing restrictions on the format in which data can be migrated into or extracted from a program. Thus, many attorneys choose to continue using a program that fails to meet their needs in order to avoid the time and money spent making the switch.

Before purchasing any software program, below are important factors to consider and suggested steps to take throughout the process.

#### Commitment

Think of the purchase as a long-term investment. Be sure the firm is committed to using the product to its fullest capacity.

Many firms that purchase without the proper due diligence beforehand may never use the product at all. Or if they do, only a small portion is utilized. Consider the willingness of firm attorneys and staff to use the product.

#### Know Your "Big Picture" Goals

Every firm is unique and has its own set of specific needs and wants. Vendors often market their product by listing every feature offered, which can leave you feeling overwhelmed. And with the abundance of vendor options available, deciding which program to choose can be challenging. Know what you need and want beforehand so you can narrow down your options.

**Specify the challenges to efficiency and productivity that the firm may be facing, and examine possible solutions.** For example, when asking clients to provide you with discovery, they may send you multiple emails with attached PDFs, requiring opening, saving and organizing those emails and attachments in addition

to the multitude of emails you already receive every day. This also creates a security issue if the documents are not encrypted or password-protected. A solution may involve using a practice management software with a client portal where clients can upload discovery.

**Make a list of all programs you currently use and determine what features you like and don't like.** From there you can decide whether you want to continue using that program, or discontinue and find a replacement. Examine the unused or underused features to determine whether they could be implemented into your practice. Perhaps the program needs updating, or maybe you like the program in general but need to supplement it with an additional program.

**Know specifically what you want out of the program.** Problems arise when firms purchase a program without a clear idea of what they want out of the program, especially if the need arises as the result of a crisis such as data loss. When facing an issue that needs an immediate solution, it is tempting to choose a program quickly with little to no oversight. Define the need clearly before making a purchase. And avoid defining the need too narrowly. For example, if your firm is seeking a document management program, your list of needs may include things like the ability to store documents in folders connected to a particular client matter, email management, indexing and searchability, security and permissions management, and sharing with third parties.

**Consider the future needs of the firm.** Avoid programs that the firm will outgrow within a short period of time. Firms often reach a point when the software no longer fits their needs because the firm has changed in various ways. Will you be



hiring more attorneys or staff in the future? Do firm members plan to work outside the office and possibly need the option to access the program remotely? Will you be changing or adding practice areas?

**Include all firm members in the decision process.** Staff especially are more familiar with the firm's information management and daily workflows and can assist in choosing a program that best meets the firm's needs. Participation in the decision process will also allow everyone to feel comfortable with the change in office procedure and likely increase acceptance of the program.

### Explore the Options

With the multitude of software options available, take the time to find software that fits your needs. A good place to start is the American Bar Association Legal Technology Buyer's Guide at [buyersguide.americanbar.org](http://buyersguide.americanbar.org). The guide is arranged by category, providing software options for many types of legal tasks, ranging from timekeeping and billing to document management. Additional resources for finding, comparing and reviewing various software programs include:

- ABA Legal Technology Resource Center ([americanbar.org/groups/departments\\_offices/legal\\_technology\\_resources.html](http://americanbar.org/groups/departments_offices/legal_technology_resources.html))
- Oregon State Bar Professional Liability Fund Resources & Discounts ([osbplf.org/resources/save-money-with-discounts.html](http://osbplf.org/resources/save-money-with-discounts.html))
- Lawyerist.com ([lawyerist.com/legal-technology](http://lawyerist.com/legal-technology))
- Above the Law ([abovethelaw.com/technology](http://abovethelaw.com/technology))
- Capterra ([capterra.com](http://capterra.com))
- PC Magazine ([pcmag.com](http://pcmag.com))
- Lifewire ([lifewire.com](http://lifewire.com))
- Consumer Reports ([consumerreports.org](http://consumerreports.org))

Once you have a manageable list of choices, further examine each product to determine what works best for your firm, considering the following factors.

**Vendor History and Development.** Review the history of the vendor, including how long they've been involved in the legal software marketplace and

development of the product since inception. If the vendor hasn't released an upgrade in several years, that could be a sign they are not interested in competition with other programs and are focusing their attention elsewhere, or they may be discontinuing the product entirely. You want to be confident that the company will continue to provide quality services long term.

**Total Cost.** Premise-based programs reside on a local machine, such as your office hard drive. Cloud-based programs are web portals and accessible anywhere you have an Internet connection. Some programs offer both cloud-based and premise-based options, while others offer one or the other. Keep in mind that limited options remain for premise-based software, as the marketplace has transitioned to primarily focus on cloud-based software.

The initial cost of the product may be an upfront purchase price for premise-based, or a monthly subscription for cloud-based programs. But the purchase price or monthly subscription is often not the total cost. Premise-based programs may require a reassessment of onsite storage capacity, additional hardware and subsequent upgrades. Cloud-based programs may require a reassessment of internet connections and possibly the need for additional devices such as laptops or tablets depending on who will be using the program and from where. Additional costs also may include time spent training attorneys and staff, installation, data migration, ongoing support, customization costs, add-ons and retraining due to upgrades or employee turnover.

**Training and Customer Support.** What does the product offer in terms of training? Is it part of the purchase price, or does it cost extra? Do they provide in-person or phone training? If over the phone, is the trainer an employee of the vendor or a third party? If a third party, what are their certifications?

Set aside ample time for comprehensive and ongoing training for attorneys and staff. Keep in mind that firm members who are less comfortable with learning new technology may require additional training. Also determine the availability of customer support (e.g., calling times, wait time, ability to email or instant message, website inquiries). And will you receive



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### Data Migration and Extraction.

Understand the terms of service regarding data migration into the program and extraction from the program. Find out whether the product can import data for you. If so, what will be the cost? Some programs offer free data migration as an incentive to purchase. If not, can you do the conversion yourself, or will you need a third party? What is the required format? How long will it take? Will some data not be importable? If so, what would be the cost, timing and requirements for manual entry of data? Does the formatting change when data is imported? Can you do a "test-run" data migration? What is the cost and format when extracting data from the program if you decide to switch programs in the future? These are all important questions to ask before committing to any product.

**Security.** What are the terms of service regarding security? Review OSB Formal Ethics Opinion 2011-188, which specifies that when using a third party for electronic storage of client materials, lawyers must take reasonable steps to ensure that the vendor will reliably secure client data and keep information confidential. Also review the Professional Liability Fund's practice aid titled "Online Data Storage Providers," at [www.osbplf.org](http://www.osbplf.org), which discusses questions to ask when vetting a vendor regarding security protocol.

**Usability.** It is important to choose a program that is user-friendly. And what is user-friendly for you may not be for someone else. So be sure that whoever will be using the program is comfortable with the user interface. Consider factors such as visual characteristics and whether they change across different devices; ability to locate certain features; and time spent performing tasks. The ability to use, navigate and make use of the features of a program are essential factors in determining whether the program will work for the firm.

An awkward interface will be an ongoing challenge — often insurmountable. Before purchasing any program, download the free trial if one is offered. Many vendors provide at least a 30-day free trial. This is key to determining whether the program is user-friendly. Also encourage



firm members to provide feedback about the program's features and usability.

### Other General Tips

In addition to the factors discussed above, below are some general tips to consider when venturing into the software jungle:

**Talk to colleagues.** Attorney colleagues can be a good referral source for software recommendations. But be specific when asking questions. Find out what they like and don't like about the program and why. If they don't use certain features, find out why. Remember that just because it works for a colleague, every firm is unique and it may not work for you.

**Utilize software demonstrations.** Many vendors provide free software demonstrations, either through immediate access on their website or a scheduled appointment with the sales or marketing department. These demonstrations can provide you with an overall sense of the program's features and usability. Include all firm users in the demonstration.

**Compile questions to ask the vendor.** If you can't find a particular feature or don't understand how something works, contact the vendor. It could be that what you are seeking is in a location you wouldn't have thought to look, or it may not be available. The initial contact person in the sales or marketing department may not have the answer. Don't hesitate to work your way up the vendor's management ladder to get the answers you need.

### Conclusion

Avoid feeling trapped by technology. In our experience, it is essential to carefully explore the options before committing to new software. The worthwhile process can be interesting and provide an opportunity to learn more about the wants and needs of your firm.

If you have questions along the way, the Professional Liability Fund's practice management advisors are available to help. For more information, contact an advisor at (503) 639-6911 or (800) 452-1639, or visit [www.osbplf.org](http://www.osbplf.org).

*Rachel Edwards is an attorney and practice management advisor with the OSB Professional Liability Fund.*



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## The Ethics of Electronic Client Files

# Floating in the Cloud

By Amber Hollister



Paper is so 1999. In an era when lawyers file complaints electronically, dicker over computer search terms and exchange discovery on Dropbox, many of us are seeking ways to eliminate paper from the practice of law. This trend is transforming the very nature of a client file. Gone are the quaint Redwells and yellow legal paper of days past, as we text, scan and email our way to a brave new world.

A matched set of newly issued ethics opinions, OSB Formal Opinion Nos. 2016-191 and 2017-192<sup>1</sup>, outline lawyers' ethical responsibilities when shifting to a paperless office environment and responding to client requests for copies of their files.

Are texts and emails part of a client file? What if a client wants paper copies of an electronic file? May a lawyer simply scan existing paper files and destroy the originals? How long do electronic files need to be maintained? May a lawyer store electronic files with a third-party

cloud-based vendor? The following hypothetical scenarios explore the contours of the new opinions.

### Text Messages

*1. You represent a client seeking a divorce. Midway through the representation, the client terminates your representation and asks you to send her new attorney the file. You have exchanged hundreds of texts with the client, which are stored on your iPhone Messenger app. Are text messages part of the file?*

Text messages are part of the file, with limited exceptions. In today's world, many clients prefer to communicate with their attorneys in the same way they do with friends. As a result, it is increasingly common for clients to send text messages that provide direction and share key information relating to their representation.

When a client terminates a representation, an attorney may wonder what to do with those texts. As a starting point, upon termination, an attorney has a duty to provide the client with a copy of the file. RPC 1.16(d); 1.15-1(d). The file is broadly construed to include "the sum total of all documents, records, or information (either in paper or electronic form) that the lawyer maintained in the exercise of professional judgment for use in representing the client." OSB Formal Ethics Op. No. 2017-192.

As the Legal Ethics Committee notes in the opinion, "Information technology has radically altered the form and location of what may constitute a client file." This means that "even text messages" may be part of the file.<sup>2</sup>

But not every text message between an attorney and client need be considered part of the client file. Communica-

tions that "do not so much bear on the merits of the client's position in a matter as they do on the lawyer-client relationship" are not deemed to be part of the client file. OSB Formal Ethics Op. No. 2017-192. For example, a text message in which a client agrees to meet her attorney for lunch or comments on the latest sports scores would have little bearing on the representation, and need not be included. In contrast, text messages in which a client directs the lawyer to file a complaint or agrees to a settlement offer would be part of the file. In sum, text messages that are germane to the lawyer's exercise of professional judgment in the representation are part of the file, and must be treated as such.

*2. You doubt your client wants copies of text messages. Do you really have to produce them?*

If producing text messages sounds like much ado about nothing, there is another option available. The Legal Ethics Committee notes that an "attorney may produce less than the entire client file with appropriate disclosure" as long as the client does not object. OSB Formal Ethics Op. No. 2017-192, n6. This means a lawyer can simply ask a client whether she wants text messages to be produced as part of the file. And if the client says no, the lawyer may make a note of that preference and exclude the text messages from the production.

One note of caution: While coming to an agreement on what documents are produced as part of the client file may be an attractive option, savvy lawyers should still consider maintaining a full copy of the client file for themselves for the period of time recommended by the Professional Liability Fund.<sup>3</sup>

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## Email Messages

3. You have also exchanged emails with an asset valuation expert that you planned to have testify at trial. The emails are stored in .pst files in Outlook. May you provide the new attorney electronic copies of the messages in their native format, or do you have to print them out?

As noted above, emails are another kind of electronic document that may be part of a client's file. The emails described, exchanged between the attorney and an asset valuation expert, are germane to the continuing representation of the client and are appropriately included in the client file.

Lawyers are generally permitted to simply produce electronic files in the format in which they are maintained. The committee explains, "To the extent that a lawyer has maintained an electronic-only copy of a file, the lawyer may provide the client a copy of the file electronically in the same format in which it was maintained, through a thumb-drive, CD, or other mechanism sufficiently designed to protect client confidentiality under Oregon RPC 1.6." This means that providing new counsel with a copy of the .pst files on disk is sufficient.

On the rare occasion that a client may not have the ability to access electronic file materials, the analysis may shift. For instance, if a client is in custody and does not have the ability to regularly access electronic file materials, it may be necessary for the lawyer to provide the materials in another format such as paper. *Id.*

4. After determining what documents are part of the client file, you decide to have staff burn a copy of the emails to a CD to deliver to the new lawyer. Who pays for the staff time and CD?

Assuming that your fee agreement with the client would have allowed you to charge for staff time and costs associated with making copies, you may charge the client for the staff time and cost of creating the CD. As the committee explains, generally speaking, "a lawyer may charge a client for costs associated with the production of a file to the extent that the lawyer could have charged the client for the same work if the request had been made during the lawyer-client relationship." *Id.*

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If a client does not have the ability to pay for a copy of a file and needs it to protect his or her interests, the lawyer's right to payment for copies prior to producing the file, like the lawyer's right to a retaining lien more generally, must yield to the lawyer's fiduciary duty to the client. OSB Formal Ethics Op. No. 2017-192, n. 8. For instance, if an impecunious client needs a file copy in order to meet a statute of limitations deadline, the lawyer would be required to produce the file, despite non-payment, to prevent foreseeable prejudice to the client.

### Going Paperless

5. *You and your partners have decided to convert to a paperless practice, but you have 10 years' worth of paper client files. May you scan the client files and shred the paper copies?*

The cost and energy associated with maintaining decades of bankers boxes of client files is not insignificant. Even so, ethical lawyers must be mindful about how they transition to a paperless practice. A new ethics opinion, OSB Formal Ethics Op. No. 2016-191, provides guidance on how to make the transition.


Generally speaking, a lawyer is permitted to convert paper client files to electronic files, but common sense still applies. A lawyer must be careful not to destroy paper documents that have intrinsic significance or are valuable originals, such as securities, negotiable instruments, deeds, and wills. This means that lawyers will have to review files and segregate valuable paper originals before completing a wholesale conversion. Lawyers who delegate this task will need to supervise nonlawyer staff to ensure the staff acts in conformance with lawyers' duties to safeguard client property. RPC 5.3; 1.15-1(a).

Once a paperless practice is in place, lawyers should talk with clients about how files are maintained. Explicit agreements on file maintenance will reduce ethical quandaries in decades to come. As the committee notes, "Lawyers and clients may enter into reasonable agreements regarding how the lawyer will maintain the client's file during and after the conclusion of a matter." OSB Formal Ethics Op. No. 2017-192. A lawyer and client may enter into an engagement agreement that outlines the format in

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which the file will be maintained, and for how long.

Absent an express agreement with the client, the rules "do not mandate a retention period for client files, although the client file is considered client property that the lawyer must safeguard pursuant to Oregon RPC 1.15-1 during the period the file is retained." *Id.* at n. 7. Generally speaking, the rules do "implicitly impose an obligation to maintain information and records related to the lawyer's work for the client." OSB Formal Ethics Op. No. 2017-192, n. 1. (citing Oregon RPC 1.1 (requiring competent representation); Oregon RPC 1.2(a) (lawyer may take actions impliedly authorized)). Lawyers seeking to set a retention schedule must look to substantive law to determine their obligations.<sup>4</sup> *Id.* at n. 7. For this reason, lawyers who communicate up-front with clients about their electronic files will have more certainty about their obligations and more freedom to manage their virtual file room in years to come.

6. *You look online for a cloud-based vendor to store your client files and are overwhelmed by the options. What are the ethics issues to consider when making a decision?*

Changing the format of a client file does not alter a lawyer's ethical obligations. The duties to safeguard client property and ensure confidentiality remain the same. RPC 1.6; 1.15-1(a).

This means when making the switch to paperless client files, lawyers must be careful about engaging a cloud-based vendor that will "reliably secure client data and keep information confidential." OSB Formal Ethics Op. No. 2011-188; RPC 5.3. If you are tempted to retain a fly-by-night service operating out of a war-torn country, think twice. Review the proposed terms of service, and consider whether a vendor meets industry standards relating to confidentiality and security.

In addition, the lawyer must take reasonable steps to ensure the "security and availability of electronic file documents" during the representation and after it concludes. OSB Formal Ethics Op. No. 2016-191. Ask what happens if there is an outage and you need access to client files to meet a deadline. What happens if the service goes out of business? Are the files backed up? Consider how you will react

if your electronic file is not available and what recourse you may have to protect your clients' interests.<sup>5</sup>

After you retain a cloud storage vendor, reconsider the quality of the service from time to time, and evaluate whether it has kept pace with industry-standard technological advances. OSB Formal Ethics Op. 2011-188. Consider how you can effectively remove files from the cloud when it is time to purge client files.

While electronic client files give lawyers opportunities for increased efficiency and flexibility, lawyers who switch to paperless must keep in mind their ethical obligations to safeguard client files and produce copies to clients.

*Ethics opinions are published and updated on the bar's website at [www.osbar.org/ethics/toc.html](http://www.osbar.org/ethics/toc.html).*

*An archive of Bar Counsel columns is available online at [www.osbar.org/ethics/bulletinbarcounsel.html](http://www.osbar.org/ethics/bulletinbarcounsel.html).*

### Endnotes

1. OSB Formal Ethics Op. No. 2017-192 is a revised and reissued version of withdrawn OSB Formal Ethics Op. No. 2005-125.
2. This conclusion is consistent with Oregon RPC 1.0(q), which defines a "writing" broadly to include any electronic record of a communication.
3. For specific file retention recommendations, see "File Retention and Destruction," available to OSB members who log into and view the PLF practice aid and form collection in the "File Management" category on the PLF's website, [www.osbplf.org](http://www.osbplf.org).
4. For information about PLF recommendations on retention schedules, see note 3, above.
5. The PLF practice aid "Online Data Storage Providers" provides an excellent checklist for lawyers selecting a cloud-based vendor and is available in the PLF's practice and form collection in the "Technology" category at [www.osbplf.org](http://www.osbplf.org).

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