

Paperless in One Hour for Lawyers

With excerpts of the book Paperless in One Hour for Lawyers by Sheila M. Blackford and Donna S.M. Neff, published by the American Bar Association Law Practice Division, 2014.

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Getting Started

Raise your hand if you are drowning in paper.

As members of the legal community, we generate paper and attract even more. If you're holding this book, either you wonder whether going paperless is a good idea or you already know it's a good idea but are wondering how to do it.

The world is becoming less paper-dependent, but we still do not profess to be completely paper-free. Donna's law office has developed and implemented procedures that allow her firm to do the same jobs with much less paper, and when a client matter is closed, its contents are entirely in digital form. In this book, we'll discuss some strategies to help you do the same in your firm.

The Benefits of Going Paperless

A review of the benefits may help you answer the "What's in it for me?" question and clarify the goals you hope to achieve by moving to a less paper-dependent environment.

Here are some of the many benefits of going paperless:

1. Reduced costs for storing and printing due to the reduced need to store paper files and the limited need for printing
2. Greater efficiency and productivity resulting from improved document management
3. Access to the firm's documents quickly and easily from anywhere with an Internet connection
4. The ability to take an entire file to court without having to lug boxes of paper
5. Less time spent locating and retrieving documents, whether current or archived
6. Greater access to information about a specific document's history of authorship, readership, or modification
7. The ability to control levels of permission for access to each document
8. Improved security: it is more difficult to copy or alter a properly secured electronic document than a paper one
9. The option to decrease office space: with electronic document management, employees can work remotely, and a coordinated work-from-home system means two or more employees can share the same workspace
10. A higher level of client service at low cost

11. Easier compliance with courts, land title offices, and other organizations and tribunals that increasingly expect electronic filings

12. A reduction in the firm's environmental impact both now, as a result of using less paper, and in the future, because of the reduced need for storage space.

The many advantages described above translate into increased efficiency, better document security, improved client satisfaction, and savings of time and money. These advantages, however, also have an unquantifiable benefit: peace of mind. The sum total of this peace of mind is priceless.

The Consequences of Too Much Paper

The Cost of Lost Productivity

Most law firms generate and accumulate a large amount of paper. It shouldn't come as a surprise that there is an enormous loss of productivity when you spend even fifteen minutes a day searching for a specific document. If your billable rate is \$200 an hour, the cost of fifteen minutes of unproductive time is \$50 a day, which translates into \$250 a week, or \$13,000 a year. And if others join you in the search, there is an additional cost for their loss of time as well.

The Cost of Paper Storage

The cost of overhead increases when you need a place to store all that paper. Lateral files and vertical files have two things in common: they are quickly filled, and they take up room in our offices. But office space isn't the only cost, because on-site capabilities are quickly maxed out. Proper storage of paper files requires a secure environment where humidity and moisture is controlled.

Sheila recently talked with an Oregon lawyer who discovered that all the firm's files were covered with mold after two years in a storage facility that was not humidity-controlled. Of course, the cost to re-create a paper file rendered useless from damage is far more than the cost of humidity-controlled storage.

But the expense of keeping closed client files in off-site storage grows exponentially as you continue to close files that need to be maintained for several years to comply with ethical rules and regulations. Your malpractice insurer will likely recommend keeping closed client files for the duration of any statute of ultimate repose for a claim of legal malpractice, frequently ten years from the date the matter is closed. And if you are a criminal defense lawyer, you might need to hold the file of an incarcerated client for a period that may be longer than your lifetime.

The cost of a ten-by-fifteen-foot storage unit is approximately \$175 a month in Los Angeles, \$270 in Chicago, \$250 in Toronto, and \$370 in New York. As your storage needs increase, so does the space required, and so does the price. Plus, there's always inflation, and the cost of transferring your files from one vendor to another may well be prohibitive.

On top of the financial expense, it is time-consuming to catalog and prepare paper files for storage and retrieval. As frustrating as it is to search for a client file in your office, trying to find it in storage can be much worse.

The Cost of Digital Docs

In contrast to the space needed to keep paper files, one portable hard drive with a storage capacity of one terabyte can hold all of your client files and much more. One terabyte is one trillion bytes, or one thousand gigabytes. These are huge numbers for storing digital text, which takes up little room compared with audio, images, or video. For example, assuming a five page document is one hundred kilobytes, a 5.4 million–page document would be one terabyte. For all this storage, one- and even two-terabyte hard drives are available for less than \$200. In short, going paperless is the economical and green alternative to filling expensive office space with filing cabinets.

Who Should Read This Book?

This book is for the busy solo or small-firm lawyer who may not have IT support and doesn't have time to read a lot of books, blogs, and articles to get answers about going paperless. This book is also for the lawyer in a bigger firm who wants to do a quick study about going paperless to sell the idea to the rest of the firm and for the managing lawyer or law firm administrator who wants to get background information before putting together a plan for firm-wide rollout.

The two of us are eager to let others know what we've learned about going paperless. Although we share the same enthusiasm and vision, we have arrived at this point through different experiences after first becoming inspired at seminars describing the benefits of a paperless law practice. Sheila encourages lawyers in Oregon to go paperless; Donna runs a paperless, thriving trust and estates practice in Ottawa.

You are busy. We get that. We promise you can read this book in about one hour. Each lesson will be quick and easy to digest, with lots of helpful lists, charts, and screenshots to show you how we've done it and provide tips and tricks to encourage you along the road to going paperless.

Road Map for the Journey

Getting commitment from your team is the first step in embarking on the paperless journey. To prepare for this step, you must have an understanding of the nuts and bolts of the paperless environment.

The Agenda

- Lesson 1: Define Goals and Analyze Workflows
- Lesson 2: Hardware: What You Need
- Lesson 3: Software Applications: What You Need
 - The PDF Format: A Primer
 - Document Management Software
 - A Do-It-Yourself Model of Document Management

- Lesson 4: Establish a Paperless Protocol and Improve Business Practices
- Lesson 5: Take a Closer Look at Cloud-Based Storage
- Lesson 6: How to Get Commitment from Your Team and Buy-in from All Stakeholders
- Lesson 7: Fine-Tune Your System and Focus on the Details
- Lesson 8: Apps for Paperless Lawyers
- Lesson 9: Ethical Considerations
- Conclusion: What Lies Ahead
- Resources
- Appendix: File Naming

Lesson 1 Define Goals and Analyze Current Workflows

Define Goals and Analyze Current Workflows

Going paperless is much easier with some upfront planning and initial groundwork.

First, you need to define and prioritize the specific goals you hope to achieve. Of course you want to reduce your reliance on paper. But going paperless offers many other benefits, as you saw in the introduction. Decide which of these are most important for your office and begin there. Second, analyze how your firm does things now. How does a paper document travel through your office? Which team members are responsible for what steps? These and other questions will help you clarify your current workflows.

Identifying goals and analyzing workflows will help you determine what needs a complete overhaul and what simply needs to be tweaked to ensure a successful transition to going paperless.

Define Your Goals

Goals should be specific and measurable. What are your goals for going paperless? What exactly do you need to do to succeed, and how will you know when you are ready to proudly wear a “We’ve gone paperless” t-shirt?

Going paperless means different things to different people. Decide, with your team, what going paperless will mean for your firm:

- fewer paper documents or none at all?
- storage needs reduced or eliminated?
- some or all employees could work from home?
- all of the above?

Brainstorm with your entire staff, or your firm’s practice group or department, to determine the specific results to be achieved. Here are a few questions to start the discussion:

- What is motivating us to consider going paperless?
- Is there a problem we are trying to solve?
- What part of going paperless excites us most?

Once you have your goals itemized, don’t stop there. Prioritize them according to their importance to the team as a whole and their positive effect on the bottom line. Refer to the goals throughout the process

of developing your paperless office to ensure they will be met. When you can put a check mark beside each goal, you will know you have “gone paperless.”

Donna’s initial goal in considering the paperless route was a practical one. Her firm was quickly outgrowing its in-house physical storage capacity. She wasn’t keen on paying for additional storage outside the office. Going paperless offered an answer.

And if saving storage costs wasn’t enough, Donna soon realized that going paperless could be the answer to her question, “How can a solo lawyer satisfy her love of travel and keep the office going?” The prospect of increased mobility got her globe-trotting heart all aflutter. She was sold. After she spent a month traveling through South America, all the while continuing to run her practice, Donna proudly donned her t-shirt because she knew her firm had successfully gone paperless. Subsequent lengthy trips have also been possible, all because she took her office paperless. Even if all you want is to be able to work from home without having to lug a heavy briefcase with you each night, going paperless is the answer.

Analyze Your Current Workflows

Once you have a clear, defined sense of what you hope to achieve at the end of your paperless adventure, it’s time to determine how to efficiently and effectively get to where you want to go.

Review and analyze your current processes and workflows. Be critical of how you do things. Look for every opportunity to improve. You must determine which areas need improvement and which processes are not as efficient as they could be.

Involve your entire team in this exercise. Your staff works with the firm’s documents daily and will have valuable insights into what will work and what won’t. Encourage everyone to share ideas openly and offer suggestions for improvement.

To get started, explore these questions:

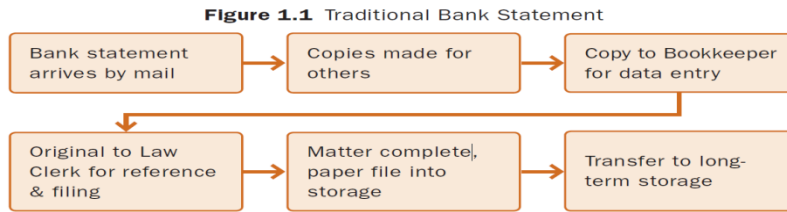
- How does the firm organize paper documents?
- How does the firm organize electronic documents?
- Do these systems work well?
- If not, what would make them better as we go paperless?
- In what ways could paper be reduced?

Look at the paper trail in your office. How do documents flow, from arrival to archiving or destruction? Consider the following for every physical and electronic document:

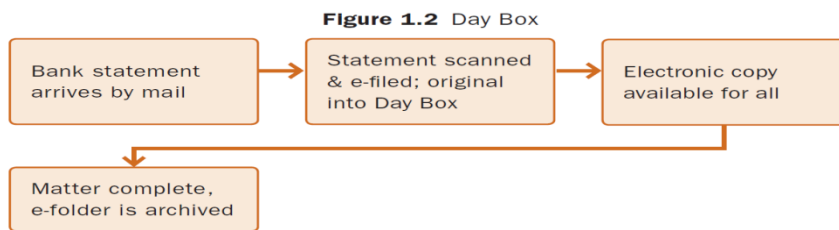
- How does it arrive?
- Who touches it first?
- Where does it go next?
- How is it saved?
- Where is it saved?
- Is it saved in more than one location?
- Is anyone given a copy?
- How is it retrieved?

One of the biggest benefits of going paperless is the streamlining of routine processes for handling paper. Consider the following example of the monthly bank statement at Donna’s firm (see Figure 1.1). In the traditional paper-based law office, the statement arrived in the mail and was

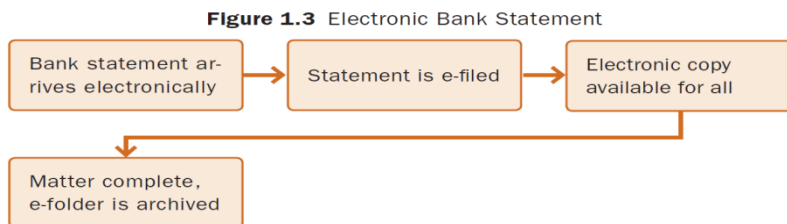
handled by various staff members.



As Donna’s firm transitioned to paperless, the staff changed their process to include using a Day Box, a box in the scanning area that held the original document (see Figure 1.2), which was used to check the quality of the scan and then shredded at the end of the month.



Finally, when the firm evolved to a paperless system, the monthly bank statement arrived in an electronic format, as shown in Figure 1.3.



Developing the processes needed to become paperless may seem like a lot of work. But as the experience of many lawyers who have gone paperless shows, if you expend the effort to lay a solid foundation, you will be rewarded with an easier and more enjoyable transition for everyone involved.

Key Points

- Define and prioritize the specific goals you plan to achieve in going paperless. Refer to them often as you transition.
- Analyze how you handle documents in your firm. Is there a better way?

Now you know where you are and where you want to go, and you have laid the groundwork for determining what processes need to be developed to achieve your paperless goals. In Lesson 2, you will review the hardware you need.

Lesson 4 Establish Paperless Protocols and Improve Your Business Practices

Establish Paperless Protocols and Improve Your Business Practices

We all have procedures for how we accomplish tasks in our offices. Protocols describe the precise manner in which these tasks must be consistently performed by everyone. Having protocols for handling your law office's important paper and electronic documents should help you improve your business practices.

You will likely not want to waste time and money converting documents in closed files or even current files to PDF. Instead, choose a specific date and put your time and effort into converting all new files from that date forward.

If you want to scan closed files to reduce storage costs, investigate whether a local copying/scanning company will do this on a more affordable basis if they can have a long period of time to complete the work. Some scanning companies will give you a better price if they can have the flexibility to complete your project during downtime between their bigger jobs.

Converting Documents to PDF

You will need to develop a protocol for converting paper documents and electronic documents from other formats to PDF. Develop a written process that, at a minimum, outlines when a document will be converted to PDF, who will do it, and what will be done with the original.

You should always convert documents to PDF when they arrive at your office so you won't be overwhelmed by the volume to be converted and abandon your plan to become paperless. Although the whole office team should be comfortable converting documents to PDF, appoint one or two people to have the primary responsibility—usually these are the staff who handle all incoming documents. Other team members will need to know how to scan, name, and store various documents they work with, including e-mails, in PDF.

Create and use a colored stamp to indicate that a document has been scanned so anyone looking at an original can quickly determine whether it has been scanned.

Ensuring Quality Control

It is important to have a quality control system to ensure scanning is done accurately. While most scanners are remarkably reliable and accurate, none are perfect, and there are no do-overs once a paper document has been shredded. A frequent problem is missing or skewed pages from operator or machine error. A quality control system can catch these errors and the document can be re-scanned to rectify them.

In Donna's firm, their centralized scanner attaches the scanned document to an e-mail that is sent to the staff person who will be working with the document. To reduce errors, the person doing the scanning must

include the total page count of the document being scanned in the subject line of the e-mail so the recipient can verify that all pages were included.

Other firms have a team member assigned to verify scanned documents by comparing them with the originals. This is a fast process of sitting in front of a monitor and quickly ascertaining that all pages have been captured and are readable and that the scanned document is named properly. Anyone who has been involved in quality checking document coding will be helpful in working out a quality control checklist and protocol for scanning.

Storing Before Shredding

Store paper copies for a specific length of time to verify the accuracy and quality of their scanned digital format. As previously mentioned, Donna uses a Day Box to temporarily store paper documents and has an official policy that the contents will be shredded six months after the day the box was used. This provides considerable peace of mind for everyone, especially for those who were hesitant to give up paper.

Your protocol should have a consistent period of time to hold on to original documents after they have been scanned. It would be prudent to retain the originals for at least thirty days. A system similar to the one Donna uses would be very helpful as a safeguard against accidentally destroying a document before it has been properly preserved.

Creating a File-Naming System

Every electronic document, once scanned or converted to PDF, must be named in a standardized, consistent manner. You'll want to devise a file-naming system that makes sense for the number of staff in your firm, and the documents worked on. The filename should contain just enough details so any team member knows what a document is without having to open it. In Appendices 1 and 2, we share two sample document-naming systems, but there are many ways to approach this.

Document management systems you buy as installed software or subscribe to as a cloud-based SaaS usually have a standardized file-naming convention built into them, which serves as a great starting point for your office's own system. However, depending upon what DMS you adopt, file-naming protocols may be helpful.

Organizing Document Storage

For your firm to benefit from going paperless, you need to network all of its computers; in other words, all files should be stored on a central server that everyone can access. Most law firms set up their electronic filing cabinets to mimic their traditional filing cabinets. Your protocol should specify how your files, folders, and subfolders will be named and organized.

It is best to always open a new matter file for returning clients. If you organize by client and matters, it will be easier to manage your document retention and destruction procedures (if you don't create a super client file spanning several years and several different matters). If you set matters up as subfolders under a single client folder, you will want to designate

the destruction date on each matter subfolder and indicate this on your file inventory.

When deciding how many subfolders you need, aim for only a screen's worth of files in any subfolder. If the list will exceed a screen, consider whether an additional subfolder is needed. The extra scrolling time you avoid may not seem like a lot, but when multiplied by the number of times a day you encounter it and by the number of staff in your firm, the lost time adds up quickly.

When naming subfolders, pay attention to how they will be sorted. For example, beginning all correspondence folders with "Corr" will allow them to be grouped together when displayed in the index. (See Figure A1.6 in Appendix 1.)

Use Templates to Ensure Consistency

Once the folder structure is determined, create a "folder template," or a set of standard folders and subfolders, for each type of matter handled by your firm; this saves time and ensures consistent naming. Keep your folder templates where they can be easily found and copied.

To protect a template file from being accidentally changed, make it read-only. To make a Word document read-only, open the file and follow these steps:

1. Click **File**, then **Save** (or **Save As** if previously saved).
2. Click **Tools** (near the bottom of the screen to the left of **Save**).
3. Click **General Options**.
4. Click to put a check in the box beside **Read-only recommended**.
5. Click **OK**.
6. Save the file.

Backing Up and Test Restoring

A paperless office should have multilayered, reliable, and frequent backups, including incremental and full backups, and on-site and off-site backups. Technology is a wonderful tool, but nothing is fail-safe. The integrity of your backup system should be checked by regularly performing a test restore to ensure your data is preserved in a usable form and restorable with minimum delay and difficulty.

The best way to determine how often you should back up your data is by asking yourself what you can afford to lose. At a minimum, you will want to back up more than once a day; many systems (both on- and offsite) will provide for more frequent or continuous backups. Your system should allow this.

The safest course is to have multiple backup redundancies. Back up your data on your computer hard drive because software applications can freeze up, resulting in lost data. Back up your data on your firm's server because it is a more powerful storage center. Back up on something away from your physical office, especially secure Internet or cloud-based storage, in case of a natural disaster.

Part of your law firm's disaster plan should be to have your data backed up and accessible to you when you reach safety. The devastation of powerful storms such as Katrina and, more recently, Sandy caused many law

firms to use safe, secure storage on the Internet; if a firm's infrastructure is lost or inaccessible, the data can still be accessed through a secure Internet connection from anywhere. The post-disaster stories of lawyers accessing their law firm's data from the Internet once they relocated to safe areas illustrate that the cloud can be a valuable component of a backup plan. Lawyers who had this accessibility resumed their practices sooner. We will discuss cloud-based storage in more detail in Lesson 5.

If your firm has only your stand-alone computer, you'll want to back up to an external storage device that plugs into one of your computer's USB ports and use a secure cloud-based storage system as well.

Why all these layers? If something happens to the first layer, you can still get back your data from the second, and so on. Although they are rare, we have all heard the horror stories of people needing their backup only to find it has gone awry in some fashion. Don't tempt the odds. We'd much rather have a backup we never need than need one and not have it available.

Managing the Size of Data Storage

As you accumulate more and more electronic files, backups can become unnecessarily huge, which slows down the process and requires additional space, costing time and money. Here are some suggestions to reduce file size and maximize the capacity of data storage:

- Set the scanner to a lower resolution, such as 200 or 300 dpi.
- Set the Adobe Acrobat function to reduce file size.
- Set the scanner to black-and-white scanning.

Closing and Storing Files

For paper client files, a good file closure process goes through the complete file, looking for and removing

- original documents belonging to the client
- sample documents from other matters
- duplicate copies

You should review a digital file prior to storage with the same level of care you would use for a paper file. Focus on storing the file in a manner that will best preserve it for the length of time it must be saved. Essentially, you are archiving your file. As discussed elsewhere, the safest format in which to store digital files is PDF (or PDF/A), which is the international standard. If you don't think this is important, consider that opening a document stored in its native format, such as Microsoft Word 98, would require having a computer capable of reading or running Microsoft Word 98. Using PDF will save you headaches should you need access to a digital file or document.

Creating a File Retention Schedule

Your jurisdiction or governing body will have guidelines for how long client files should be retained. Some files may need to be kept for set periods of time based on your jurisdiction's equivalent to ABA Model Rule 1.15 (Safekeeping Property). This rule requires preservation of client property for five years from the date the matter is closed.

Most jurisdictions define client property as including not only all client trust account records but also the actual client file. Others conclude that if you provide your client with a full copy of the client file, then what you hold in the office is the law firm's property.

Do your due diligence and check your jurisdiction's rules. Does your jurisdiction require that the law firm maintain a complete paper file for the duration of the client matter? If so, then your protocol will need to be paperless upon completion. How long should you preserve a digital version of the client file? Arguably, for the same length of time you would preserve the paper version. How long this needs to be will depend upon various factors, such as ethical, legal, and professional considerations and economic and practical issues.

Find out if your jurisdiction has a statute of ultimate repose on a legal malpractice claim. This is the outer limitation on when a malpractice claim can be brought. It makes sense to hold on to your client file for the duration of this period in case you need it to defend yourself. If you don't have insurance, be even more careful to preserve the client file. Check for any guidelines or policies from your state bar or law society and your malpractice insurer, if you have one.

Finally, it is now considered best practice to disclose to clients that your office is paperless and to explain what your firm's storage protocols are. In addition, you should disclose that if a client requests a copy of the client file, or a portion of it, you will provide the information electronically. If you don't do so, the rules in your jurisdiction may require you to print the file.

Destroying Electronic Records

Storage space for digital files is affordable; however, adopt a unified business practice of safeguarding both paper and digital files for the required time period and then safely destroying them. Remember that when you delete an electronic document, it is still there. To destroy digital data on a local storage device, use a software program such as Darik's Boot and Nuke, which completely obliterates the data. Before storing digital data on a third-party site, find out how destruction can be completed. At some point, your law practice will come to an end due to retirement, incapacity, death, or some other reason. While you may be required to preserve your client data (in whatever form), you still need to set a specified time for it to be destroyed or wiped from any remote server.

Developing Knowledge Management

Give some thought as to how you will organize your resource and research materials, which may contain a vast amount of documents, including e-books and e-publications. You might want to copy and scan the tables of contents from your physical books and include them in your knowledge management system as well.

Training Your Staff

This seems like it would be obvious, but anecdotal evidence suggests

otherwise. Ongoing training of staff members ensures your future team is as much onboard as your original team. You should also spot-check client files to determine whether your staff is following procedures and complying with protocols.

Well-trained staff should never have to guess how to name a document or where to save it. If this happens, it usually means a protocol needs updating or isn't clear enough. Guessing could result in the document becoming lost amidst all of the other files.

Reviewing and Revising for Efficiency

Review and revise your paperless protocols as your firm changes or as processes appear to be working less efficiently than planned. Initially, you will likely want to conduct reviews of your protocols at thirty, sixty, and ninety days. Once you are satisfied with your system, an annual review will keep it running at peak performance.

When developing protocols, take advantage of all available resources. Your state bar association or law society will likely be able to assist you in developing policies for the closure, retention, and destruction of client files, including paper and digital documents, and may have a practice management adviser to answer your specific questions.

Do not allow shortcuts on established protocols. They are set up for the firm's safety.

Now that you know what it takes to establish the paperless protocols you need, and are planning your backup redundancies, you'll want to look closely at using storage services on the Internet.