

Technology Tips for Lawyers

NYSBA, Bridging The Gap - Summer 2014

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Implement these technologies (or at least visit the idea) today!

- Cloud based practice management system (such as [Clio](#), [Rocketmatter](#), [MyCase](#)).
- Cloud based Enterprise level communications system including email and messaging (such as [Hosted Microsoft Exchange](#), [Google Apps](#)).
- Integrated / Cloud based phone system (such as [Ringcentral](#), [Grasshopper](#), [Virtual PBX](#)).
- Cloud based backup (such as [Mozy](#), [Carbonite](#), [Backblaze](#)) as part of a comprehensive backup strategy.

Things you can/should do - Today

- Revisit your web presence and consider the implementation of a comprehensive standardized platform to leverage social media, easy updates, mobile devices and so on.
 - What is out there - about you?
 - Is it good / bad / relevant?
- Mobile Device / Smartphone / Tablet - GET ONE, circa 2013 or later.
- BECOME SECURITY CONSCIOUS! (more on this later)

Cloud Based Practice Management Systems

- Your entire practice organized in one place.
 - Billing
 - Matter management
 - Contact information, emails, tasks, matters, accounting, documents.
 - Necessary for a productive practice, yet most small practices go without as if they were management geniuses.
- Traditional PM systems are great, but they reside in one place. Cloud based systems exist everywhere you are, whenever you need them?
 - Court, conferences, in traffic, on the train.
 - Always up to date and synced.
 - Plug ins with today's latest online tools such as Google Docs/Apps, [Dropbox](#), [Box.net](#), [Evernote](#)
- Escrow your data elsewhere.
- REVIEW THE TERMS OF SERVICE.

Enterprise Level Communications Systems

- A must in today's environment.
 - Easy collaboration between co-workers
 - Once reserved only for corporations with big budgets, now that same technology is available through the cloud for pennies a day. (How about \$0.14 / day)
 - Your primary data store, synced between all devices and systems.
 - [Google Apps](#) and [Microsoft Hosted Exchange](#) both sync easily with Apple IOS and Android devices right out of the box. All you usually need is your username and password to set them up.
 - Calendars in these systems should sync with many practice management systems (unify your calendar!)

Integrated / Cloud Based Phone Systems

- A real WOW factor.
 - Gives you the same presence once reserved for only the biggest of phone budgets.
 - Ability to roll out a phone system in hours not days...(but you must have a good internet connection, as most of us in this area are blessed with).
 - Synchronize with your practice management system, your billing, your mobile devices, email, computer.
- Reclaim billable hours!
 - I run a quick report for certain hourly clients that I know I missed billing their calls. Every month, it more than pays for the entire system.
- Ability to call from anywhere yet seem as if you are calling from the office. (shield the cell #).
- System is up even when power and phone lines are down.

Cloud Based Backup

- Hurricane Sandy - Need I say more?
- Local backup is great, but adding a cloud based component solves the geographical redundancy issue.
- To use a phrase from late night TV - “Set it and forget it”. When online backup does not work, it notifies you. It wont forget, but you likely would, at least at some point.
- Do a test restore as part of your monthly tasks. (just to make sure)
- REVIEW THE TERMS OF SERVICE.

Web Presence

- Unify your presence on the web
 - CMS based website such as something based on Wordpress.
 - Standard platform, Google friendly, SEO friendly.
 - Update your website easily from your smart phone / tablet (yes even for those of you who are non-technosaavy.
 - Won't need to worry about losing your developer...systems such as Wordpress are industry standard / widely used.
- You must take into consideration at least some avenues of Social Media.
 - Your competition likely is.
 - A unified web presence can integrate Social Media into your website.
- Mobile device / Adaptive web technology.
 - You want your website to show up nicely (and appropriately) on a smartphone, tablet,...

Mobile Devices - Your extension to the cloud.

- Bring it all with you
 - Each of the previously mentioned items can be accessed remotely with the use of a smartphone and/or tablet.
- Whether its IOS or Android...get one, of recent vintage. Technology in the area is antiquated when you buy it, obsolete within 24 months.
- The ability to work when and where you want.
- The ability to have access to every document / piece of information that you own at a seconds recall. Great for when you are in court and remember that amazing and compelling document that you used in a previous matter...call it up on your tablet right now!

Mobile Devices, Continued.

- There are COUNTLESS apps to help you with your practice, pass time, count, whatever it is you fancy. A few of my favorites used everyday in my practice:

[Evernote](#)

[Dropbox](#)

[Roboform](#)

[Wordpress](#)

[Ringcentral](#)

[Dragon Dictation](#)

[Doc Scanner](#)

[Mozy](#)

[CC Terminal](#)

[SquareUp](#)

[Realtor.com](#)

[Zillow](#)

[Starbucks](#)

[HT Recorder](#)

[NY Law](#)

[IRS To Go](#)

[NY Child Support Calculator](#)

This list goes on and on, but you have to “be in it to win it”.

These links are to Apple / IOS versions, but most have Android versions.

Sorry, BB Users...

Become Security Conscious.

- Simple solutions cover 99% of contingencies!
 - Use strong passwords;
 - Password protect your mobile devices;
 - Use the built in tracking features...get to know them;
 - Don't use the same password for each login you have;
 - Better yet, use a password manager and let it create random passwords for you. (See [Roboform](#));
 - Much more difficult to crack / guess a password like “xfyEIV384%Z#” instead of “john1”;
 - Encrypt your computer (especially Laptops) hard drive (Apple & Microsoft both have built in encryption you can turn on, or look into something called [TrueCrypt](#));
 - Make sure you have active antivirus / antispam software loaded on your computer, be it a Mac or PC. Even the free [Microsoft Security Essentials](#) works extraordinarily.
 - Remember, don't say anything in email / put anything into the digital communications world that you wouldn't want displayed on CNN, Fox, disclosed by Eric Snowden,...

Security Items to think about...

- What types of information is your firm accessing/retaining on your network?
- What is the infrastructure of your technology network?
- Where are your applications and data stored: In-house LAN/WAN, Cloud storage and SaaS applications, stand-alone PC, etc.
- Type of Internet access: Public WiFi, VPN
- Portable storage devices - thumb drives, Dropbox, Google Drive, etc.

- Software Applications
- Software, Network and Operating System Updates and Patches
- Current Anti-Virus & Malware threats
 - up-to-date Antivirus software
 - Mobile technology
 - Remote access
 - Smartphones, tablets and laptops
- Extranets and data rooms where documents and information are shared with clients in a collaborative environment. They permit clients and lawyers to share, in real time, document databases, docketing information, legal research and memoranda, digital copies of pleadings, and other relevant case materials.

Risks associated with communications in Cyberspace

- Risk of unintended client engagements through on-line communications such as in chat rooms, e-mails, etc.
- Practicing law outside of the state of admittance
- Prohibitions against attorney advertising
- Firm blogs, or email alert systems, to keep clients apprised of recent statutory or case developments

Cloud - NYSBA Ethics Opinion

COMMITTEE ON PROFESSIONAL ETHICS Opinion 842 (9/10/10)

Topic: Using an outside online storage provider to store client confidential information.

Digest: A lawyer may use an online data storage system to store and back up client confidential information provided that the lawyer takes reasonable care to ensure that confidentiality will be maintained in a manner consistent with the lawyer's obligations under Rule 1.6. In addition, the lawyer should stay abreast of technological advances to ensure that the storage system remains sufficiently advanced to protect the client's information, and should monitor the changing law of privilege to ensure that storing the information online will not cause loss or waiver of any privilege.

Rules: 1.4, 1.6(a), 1.6(c)

Cloud - Ethics Opinions from Other States

- Pennsylvania Formal Opinion 2011--200
- California Formal Opinion No. 2010--179
- Alabama State Bar Ethics Opinion 2010--02
- Arizona State Bar Formal Opinion 09--04
- Nevada State Bar Formal Opinion No. 33
- Iowa Op. 11--01
- Oregon Formal Op. 2011--188
- Vermont Advisory Ethics Op. 2010--6
- Massachusetts MBA Ethics Opinion 12--03

ABA Model Rule 1.1 Comment 8

- Maintaining Competence - [8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

Rule 1.6 (c) (NY & ABA)

- New York - A lawyer shall exercise reasonable care to prevent the lawyer's employees, associates, and others whose services are utilized by the lawyer from disclosing or using confidential information of a client, except that a lawyer may reveal the information permitted to be disclosed by paragraph (b) through an employee.
- ABA - 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.

Rule 1.6 (c) (NY & ABA)

- Keep in mind - not securing your data and having any / all your data disclosed in a data breach would likely be viewed as a violation of rule 1.6 - that is if you made “reasonable efforts” to secure such data.
 - Strong passwords
 - Password protected mobile phone
 - Secured laptop (encryption?)
- Look to ABA comments 18 & 19.

ABA Rule 1.6 comment 18

- 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. See Rules 1.1, 5.1 and 5.3. 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)**. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules. For a lawyer's duties when sharing information with non lawyers outside the lawyer's own firm, see Rule 5.3, Comments [3]-[4].

ABA Rule 1.6 comment 19

- When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. **Special circumstances, however, may warrant special precautions.** Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the **sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement.** A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these Rules.

Thank You

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