

Technology That Works for Estate Lawyers

Plugging the Technology Gaps

By Daniel B. Evans

Even when the “big pieces” of technology are in place, there may still be “cracks” between the different programs that can prevent your office from operating efficiently and can even lead to mistakes. There is more to do than just install software for word processing, estate tax calculations, document drafting, fiduciary accounting, tax return preparation, case management, and time and billing. In some cases, you may not be using all of the features of the software you have. In other cases, you may not have configured the software to work the way you want, or to work most effectively with other programs.

The following is a series of suggestions to make your use of technology more efficient and more effective. Some of the suggestions are small things that you can start doing tomorrow. Others may require some work and more time and effort from you and your staff. Almost all can be carried out with the hardware and software you already have in your office (or at relatively low cost).

Do the Accounting BEFORE the Tax Returns

Start using your fiduciary accounting software as a management tool instead of a procedural hurdle.

Instead of looking at the fiduciary account as a task to be performed before the estate is distributed, use the capabilities of the accounting software to help you during the administration of the estate. By entering initial asset values, and reconciling subsequent bank and brokerage statements, you can insure that all of the assets, receipts and disbursements have been recorded properly, and that the death tax returns and income tax returns will be complete and accurate.

If your fiduciary accounting software shares information with an estate tax preparation program (and it should), you’re killing two birds with one stone by doing the fiduciary accounting first.

Even if the tax returns are separate from the accounting software, the reports from the accounting software will greatly simplify the preparation of the tax returns. (For example, the fiduciary accounting software may be able to generate schedules that can be attached to the tax returns.)

Value Securities Electronically

Most of the good fiduciary account programs can interface with one or more of the online security valuation services that are designed specifically to handle valuations in the manner required for federal estate and gift tax purposes. If you're not already using this feature, then start now, because it is much easier than looking up securities yourself and much more accurate than asking your stockbroker to do it for you.

Set Up "Precedents" for Your Estates

Case management programs such as Time Matters and Amicus Attorney allow you to set up "precedents" or "road maps" for the due dates for the tasks necessary for any kind of representation, including the administration of an estate. So, once you have opened a new estate and entered the date of death (or date of probate), the program will automatically set up items in your "to do" list and deadlines for probate filings, notices, tax returns, and other critical steps for the administration of the estate.

Create Simple Documents with Case Management

Almost all case management systems come with a built-in way for preparing forms, notices, envelopes, labels, and other simple documents using the names, addresses, telephone numbers, and file information that is recorded in the system. You should therefore be able to use your case management system to prepare simple form letters, customized instructions for the execution of documents, notices of estate administration, and other documents that don't require much customization beyond filling in information from the case management system.

The next time you need to send such a simple letter or notice, prepare a model form within the case management system and use the system to complete the document so the same form will be available for the next estate planning client or the next estate administration.

Find (or Create) Electronic Forms

Some forms are like tax forms and come pre-printed, and the court or government agency will want to see the same form come back that was supplied. Short of getting the typewriter out of the museum, what can be done to comply with this expectation?

One solution is to get software that has that form already built-in and will allow you to fill in the form on your computer and print out a duplicate of the form with the information filled in. For example, many IRS forms are now "fillable" on the IRS tax forms CD-ROM (which is very inexpensive), or can be

downloaded from the IRS in a PDF “fillable” format. Other examples are forms systems from Tax Analysts or Kleinrock Publishing.

But not all forms have been automated, and perhaps you need a form that is not included in the system you purchased. Another solution is to buy your own copy of Adobe Acrobat (the editing tool, not the reader), download forms from federal, state, and local web sites in PDF format, and then use Acrobat to convert the form into a “fillable” form for your own office.

A third solution is to scan the document, save the image file, and then use software such as the Paperport “Form Typer” (that comes with many scanners, or can be purchased from Scansoft) to superimpose fillable form fields over the graphic image of the preprinted form. (Not as nice as the Adobe Acrobat solution, but acceptable.)

Start Collecting Knowledge

Use your case management software or document management software to start saving electronic copies of the statutes, regulations, cases, forms, briefs, research memoranda, sample documents, and other information that is important to your practice.

When you find something that is useful to a client, don’t just make a copy (or print out a copy) and put it in the client file and forget about it. If it’s possible for the issue could recur for another client, save an electronic copy of the item (or scan the item) in a permanent directory or index, using your case management system or document management system to annotate or index the item. That way, you’ll be able to find it again when needed.

For example, Amicus Attorney has a “library” feature that allows you to save and organize forms and research materials, Worldox document management includes a full-text search engine to find documents, and the Paperport software includes a “simple search” feature that allows word searches of documents that have been scanned even if the document has not been OCRed. (The software automatically does an OCR process and indexes the results).

Set Up Stylesheets or Templates for Your Documents

Stop using your computer like a “glass typewriter” and start letting your word processing do the work it was supposed to do. You should have templates or style-sheets for letters, wills and trusts, contracts, court filings, and most other kinds of documents you routinely prepare with your word processing software, and those types of documents should each have a template set up with the fonts, paragraph spacings, line spacings, numberings, tables of contents, and other features that you use with the different parts of each document. This not only

saves time and effort in creating new documents, but it provides uniformity among your documents and a better image for your clients.

Scan Everything

Paper files get misfiled or lost, eventually get warehoused, and sometimes get destroyed (either deliberately or accidentally). They're bulky, difficult to keep in order, and often difficult to search if they aren't kept in good order.

But thanks to improved document management software, you can keep images of everything in the paper file on your computer desktop, quickly accessible regardless of where the physical file is located or whether everything got properly filed. And to get those images into your computer, all you need to do is start scanning everything that comes into your office – all of your client correspondence, all of the tax notices, all of the bank statements for estates under administration, everything. Make a practice of scanning all of them before they are filed (or even acted on) so that you will know you have a complete file on your computer regardless of what happens to the paper. (And if you backup your computer and store the backup off-site, your electronic file might turn out to be more durable than your paper file.)

Image Everything

As important as creating an electronic image of everything that comes into the office is creating an electronic image of everything that goes out. There should be a permanent electronic record of every letter, will draft, tax return, accounting, tax projection, and so forth.

For letters and documents created with word processors, most of us have been content to use the word processing file as the electronic record. But you won't have the true appearance of the document if your word processing program changes and you can't make accurate conversions. (I still have old documents archived in WordPerfect 4.2.) To provide a more permanent electronic image of your office output, you need to "print" everything to Adobe PDF format or to a graphic image file. (There are sometimes slight differences between a printed document and a PDF document, so to have a completely accurate record of what the client signed, it might be better to create the PDF file and then print the PDF document for the client to sign, rather than printing from the word processing program.)

Most databases allow links between images and records, so you can augment your document inventory of wills and trusts with actual images of those wills and trusts. (I hope soon to have a computerized inventory of the wills and trusts I

have created, and the location of the originals, along with images of the complete documents.)

Collate Electronically

One of the benefits of creating digital images of documents is that it is often easier to collate large documents (such as estate tax returns) electronically than by shuffling papers.

Rather than printing out each schedule of a tax return, collating the schedules with the various attachments, and then having the complete return photocopied, it is easier to scan the attachments, “print” the return to a PDF or image file, and then collate the pages electronically, assembling a complete electronic image of the return with all schedules and all attachments. Then send the image of the completed return to the printer for as many copies as you might need for the client(s), tax authorities, and your paper file. (If you want your electronic copy to include the signatures, it is simple enough to scan the signature page after the return is signed and then insert the copy of the signed page into the electronic file.)

This approach also works well for presentations that include spreadsheets and other information along with word processing text.

Archive Everything

Of course, if you continue to collect all of these electronic images for every one of your clients, your computer’s hard disk might fill up (somewhat unlikely these days), but you will certainly discover that it has become increasingly difficult to find what you need for your current clients.

The solution for an abundance of electronic documents is to archive regularly. Closed estates and inactive clients should be regularly transferred to CD-RW (or even CD-R) or other removable media, with proper indexing to find the client files if and when they are needed again. (I have every document I have written for every client for approximately the last 15 years archived onto a single CD-RW.)

Organize Your Documents by Client, Not Software

One of the great annoyances of the Windows operating system is that every software program is allowed (even encouraged) to create its own filing system for the files it creates, and those files are usually saved with (or under) the program files, far from the files created by other programs. For a typical client, you might have word processing documents, spreadsheets, emails, and document images, all of which will be kept in different directories.

One suggestion for better use of your time is to see if you can't over-ride the software defaults and save all of your files for a client in one directory for that client. That means less jumping back and forth to different directories as you work, because all of your data will be grouped together and all of the documents related to a particular client or matter can be found together.

And this is particularly useful when the time comes to archive a client's records, because most of them will already be in one place.

Develop a File Closing Procedure

Even with the best day-to-day procedures, there will be client information scattered through different systems in your computer. All of your email relating to a client may still be in that client's mailbox, even while all of your notes of telephone conversations, time records, and other case management information is in the case management database.

To make the client file meaningful and the archives of client files meaningful, all of that information needs to be collected and saved before the client file is closed, and that means you need a written file closing procedure to make sure that nothing falls through a crack. (See the sample I have written for myself and attached as Appendix A.)

Filter Your Email

One problem dealing with email is that there is so much of it and it all comes in all mixed up, with no rhyme or reason.

If you're not already using the email filtering ability that should be built into your email software, it's time to start. Create different mail folders for different kinds of email (such as email from the ABA-PTL list) that require different priorities (or have no priority at all) and create filters that automatically put those emails into those separate folders without you having to touch them. Make sure that the email with the highest priority (that is addressed to you personally by a client or another lawyer, and not by a mailing list or by a spammer) stays on the top so you can deal with it as it comes in.

You can create folders for mail that has been answered, etc., so that you can find the email again if needed, as well as save client emails to the client's main data/document directory.

Get Your Faxes by Email

Instead of automatically printing out all those junk faxes, or having an important fax delayed by a busy phone line, you can contract to have all your

faxes converted to email attachments and sent directly to your computer desktop, where you can view them, print them, or save them as images in your client file.

And the same software that allows you to read the emails also allows you to send faxes by email, either by scanning documents or by “printing” from other software programs directly to the “efax” software.

This service is available for free from some vendors, but you get a fax number assigned to you that may be outside of your area code and it is at least confusing (if not expensive or embarrassing) to ask your clients to send you faxes that require a long-distance call. To get your own fax number in your own area code usually requires a premium service that will result in a monthly fee of \$12 to \$25, depending on the service.

Get Your Email Cleaned

There are now at least two services that will scan your incoming (and outgoing) email for viruses and intercept infected emails before they even reach your computer. (See <http://www.mail-cleaner.com> and <http://www.cleanmail.com>.) You don't need to worry about maintaining your virus software, or scanning every piece of mail, because it's been done for you. (You need your own domain to use these services.)

Prepare for Disaster

If the events of September 11 mean nothing else to lawyers, it should at least show that fires can burn in law offices as easily as in other kinds of offices.

Think for the moment what your next step would be if you discovered that your office had burned to the ground. What records could you recreate? How much time would it take to get needed information from clients, taxing authorities, and (shudder) opposing counsel?

What about your time records and accounts receivables? Would you ever be able to collect for work done or work in progress before the fire, or would you either have to hope the client accepts an estimate of time spent or have to write it off as a loss?

The good news is that most of your important information is now electronic, in the form of billing entries, case management entries, word processing documents, and fiduciary accounting files. (Or perhaps all of your important information is now electronic, if you have been scanning and creating digital images of everything that comes into or goes out of your office.) Because your information is electronic, you can easily copy it and save it. In fact, it is possible that everything you really need from your office could be put onto a few CDs.

But the bad news is that your most important information is now electronic, meaning that you have entrusted your practice to the stability of magnetized rust. A fire could destroy your paper files, but your electronic files could be destroyed by a power surge or just a microscopic failure in equipment that wasn't perfect to begin with and could be nearing the end of its useful life.

Fortunately, the solution is simple. Back up all your computer files onto tape or other dependable media and store the most recent copies of your backup tapes somewhere other than your office. (Your home will do as well anywhere else that won't be destroyed by the same fire, explosion, flood, or lightning bolt as your office.)

Appendix A: Sample File Closing Procedures

1. Move all Paperport images from Paperport directory to My Documents.
2. Save or print all email messages relating to the file.
3. Create a file chronology from Amicus Attorney and both print it and save it as Word file.
4. Archive all documents in client directory to CD-RW.
5. Print final bill from Timeslips, clearing all time and payments.
6. Transfer paper file to numbered file box.
7. Record location of paper file in Amicus Attorney.
8. Transfer client/matter to “hidden” and to “inactive” in Amicus Attorney.

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