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Manage Client Matter Files the Green Way

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Many law firms are striving to become more responsible corporate citizens through various sustainability efforts. The inspiration to go green may be motivated by environmental concerns, business image or in response to client inquiries about a firm's sustainability policies. Typical law firm "green" initiatives may include: using recyclable paper and printer cartridges; changing default settings on printers to print documents double-sided; and choosing energy efficient equipment and lighting. While these efforts are admirable, they simply are not enough.

To really make a difference, law firm attorneys need to answer the call and change their existing methodology for managing client matter records and information. To be successful requires a commitment from both the client and the law firm to exchange old records management habits for new ones that support both green initiatives and budgetary concerns. Firms need to understand how resources are being used and wasted. Law firms cannot afford to wait until a client asks about their sustainability policies to develop a program.

The downturn in the economy presents an opportune time for firms to re-examine their existing policies for managing client matter information in the context of their sustainability efforts and cost reduction mandates. In many law firms, when a matter representation involves multiple attorneys, individuals on the legal team often maintain their own hard copy version of the case file. If the matter involves a large legal team, likely there are multiple copies of documents residing in individual working files.

For many attorneys, managing client files has traditionally meant managing paper-based records. Twenty-five years ago, law firms did not have the technology to easily create multiple copies of documents. If an attorney created a brief and needed two copies, he/she would most likely put a piece of carbon paper between two sheets of paper and type the brief using a heavy duty typewriter. At the time, law firms were not thinking about the long-term environmental and cost issues of managing client records.

My experience in working with law firms has shown me that many attorneys prefer to maintain their own duplicate or working copy of the file when the representation is active. Many of these same attorneys also choose to permanently retain their working file once the case has concluded out of fear that they will not have access to the work they performed on behalf of the client. The habit of maintaining duplicate copies of the matter file seems to be most prevalent in law firms that have not yet implemented a formalized program to manage client matter files throughout their life cycle. Conversely, firms that have a consistent process for managing client files throughout their life cycle that include maintaining a single, complete official matter file, have earned the trust and confidence of attorneys. These firms have proven that if attorneys have faith in the records management program, they are less reliant on the need to maintain duplicative versions of files.

The correlation between sound records management processes and support of environmental initiatives is evident in the amount of consumables used. A logical first step for firms attempting to implement environmental friendly practices is to establish an official file policy. When the matter is opened, designate a file custodian who will be responsible for ensuring that there is a single, up-to-date, official file maintained and labeled in accordance

with firm standards. This eventually will eliminate the need for attorneys to retain separate working copies of files. Policies need to be developed to make certain that all attorneys working on the matter contribute to the integrity of the official file. The firm should only allow official files to be retained once a matter has concluded.

Industry standards indicate that 98 percent of materials sent to off-site storage are never retrieved or referenced. Many law firms have yet to implement a retention policy that includes destroying materials that are no longer needed. Many of the off-site storage vendors charge a high cost for permanently withdrawing and destroying files that have reached the end of their records life cycle. Law firms should evaluate their current and future off-site storage costs as well as the overhead costs that are incurred by firms to prepare and relocate working files to off-site storage. Once a matter representation has concluded, there is minimal incentive for an attorney to review a file to determine what aspects of it need to be retained. When office space is needed for more active files, these files are often sent to off-site storage without being reviewed by an attorney. As storage volumes increase, there is an increase in the number of trips by trucks to pick up files for off-site storage. As the number of trips increases, so does the amount of carbon emissions.

TIPS FOR ENVIRONMENTALLY RESPONSIBLE RECORDS MANAGEMENT

1. Whenever possible, print research and draft documents double-sided on recycled paper. Printing double-sided will also reduce space needed to file documents.

2. Switch from legal-sized to letter-sized for paper and file folders. Twenty-five percent more files will fit into a 1.2 cubic foot document storage box if the files are letter-sized.

3. Print draft documents in "draft" mode. This will significantly reduce the amount of toner used.

4. Manage and distribute documents electronically to save paper and reduce storage. Scan hard copy documents and store in electronic format. Do not print out e-mail messages for the physical file.

5. When transitioning inactive physical files to off-site storage, remove documents from binders and hold them together with rubber bands. Recycle or donate used binders to schools and other nonprofit organizations.

6. Ensure that only the official file is stored off-site. Working files should be reviewed to determine if there are materials that need to be incorporated into the official

file. Any duplicate or working files created should not be retained once a matter has concluded.

7. Purchase records supplies that are made from recycled materials. Use paper and file folders that contain at least 30 percent post-consumer recycled content.

8. Work with your off-site storage vendor to establish a schedule to minimize the amount of trips to and from off-site storage. If a single document or file is needed from off-site storage, determine if an imaged version of file will suffice.

By taking the time now to re-examine existing policies for managing client matter information and initiating new policies, firms will reap a double benefit. They will have more effective records management practices and they will take a huge step forward in becoming more environmentally conscientious. And when a new client calls, asking "What environmental initiatives has your firm implemented?" your firm can be ready with a solid response.

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