



Advancing Trusts and Estates Practices with Technology and Innovation:

Become a Digital Innovation Specialist

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For years, there have been discussions about the need to advance the use of technology in the legal profession. During the COVID-19 pandemic, many law firms were forced to instantaneously take technology to a new level. Some firms found themselves unprepared to make the quick shift to remote work; however, as the pandemic lingered, lawyers who formerly insisted that they still needed paper discovered the joy of going paperless.

Rule 1.1 of the ABA Rules of Professional Responsibility provides that lawyers must provide competent representation to a client. Comment 8 to Rule 1.1 states:

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*** [emphasis added], engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.¹

Some states have begun to add requirements relating to lawyers and technology.

Regardless of ethical rules, law firms' use of technology should be a priority from a business perspective. Arizona has recently authorized nonlawyer ownership of law firms, and Utah has begun a two-year pilot program for testing new ways of marketing and delivering legal services, including nonlawyer ownership of law firms. Client expectations have changed rapidly, and law firms that cannot deliver from a technological perspective will be left behind.

There are numerous considerations with respect to technology. Firms that are still using paper and struggling with how to effectively work remotely should elevate basic technology and take steps toward being paperless, such as

- using effective document management;
- automating documents, processes, and finances;
- implementing knowledge management; and
- using customer-relationship management software.

¹ Model Rules of Pro. Conduct r. 1.1 cmt. 8 (Am. Bar Ass'n 1983).

Firms that already have such technology in place (or those that want to take two steps together) should consider how they can use technology to enhance their client-service offerings.

CONSIDER HOW CLIENTS WANT SERVICES DELIVERED

Even before the pandemic, clients began asking that services be delivered differently. I was assisting an ultrahigh net worth client who was seeking a particular type of professional service provider. That client chose the provider with better technology. It is mission critical that lawyers know what clients want and how they want services provided. Amazon's approach to marketing, that they call "being formed by our consumers," is a step up from "being informed by our consumers."

CONSIDER HOW LAWYERS AND STAFF WANT TO WORK

As we move past the pandemic, lawyers' work procedures have changed. Some law firms have already fully returned to the office or will return soon. Others may become fully virtual. Still others may become hybrid offices with some employees working only remotely, some working only in the office, and some working in the office on some days and remotely on other days. The technology used by law firms to accommodate these changing work styles will need to be time- and cost-efficient. Firms that have not shifted fully to the cloud should consider their options for doing so.

Attorneys' and other law office employees' desks may become laptop docking stations. Such an approach enables an employee to be either in or out of the office while using a computer owned by the law firm. In addition to being more cost-effective than two computers, using a firm laptop when working at home will minimize shadow IT and related security issues that arise more readily from using personal devices at home.

VIDEOCONFERENCING

During the pandemic, videoconferencing became the technology tool of the day for conducting meetings. Videoconferencing should remain a tool for meetings as we move out of the pandemic. Videoconferences can be more time-efficient than in-person meetings, which may involve drive time by one or more attendees and providing refreshments upon their arrival at the meeting location. Videoconference attendees tend to get to the agenda quickly and remain focused. Videoconferences can also be readily recorded. (Obtain consent if it is required by state law.) Recordings can be transcribed to create a written record of the meeting. Our firm uses an inexpensive transcription service (temi.com). When the conference is recorded and

transcribed, lawyers can remain focused on the discussion rather than on taking notes, and including an associate or paralegal for that purpose becomes unnecessary. To the extent you use videoconferencing, establishing and following security protocols are extremely important to avoid Zoom bombings and other security issues.

Videoconferencing can enhance client access to firm lawyers by making services more readily available, particularly to clients in rural areas who may benefit from the law firm's expertise. Videoconferencing also supports collaborative planning among professionals. In addition, for trust and estate lawyers, having recordings of meetings helps establish testamentary intent and capacity of clients engaged in estate planning.

The term Zoom fatigue became popular during the pandemic to refer to the sense of exhaustion that can result from continuous videoconferences. When choosing a meeting format, consider whether the discussion would have historically been accomplished by teleconference. If a conference call would have sufficed during the previous twenty years, it may still be appropriate, despite the availability of videoconferencing. Consider the right format for each particular meeting.

DOCUMENT AND PRACTICE MANAGEMENT

The ability of multiple members of a legal team working on a project to access a document became a challenge when law firms suddenly began to operate remotely. Investing in a cloud-based or otherwise accessible electronic document system (which exists as part of some practice management systems) will ensure that all client documents are easy to find and readily available to anyone working on a particular project. In addition, with a well-organized document management system, lost documents become an issue of the distant past.

Design a document management system that considers the different ways that people think about saving documents. In our estate planning practice, any file that involves a trust starts with TRST. We have TRSTREV, TRSTIRRV, TRSTSPN, etc. If a life insurance trust is sometimes saved as "life insurance trust," sometimes as "Crummey trust," and sometimes as "irrevocable insurance trust," someone looking for a particular type of trust has to know all the possible descriptors. Instead, create limited sets of files and descriptors.

Integrating your document management system with a practice management system creates opportunities for improvements in efficiency and accuracy. A number of practice management systems offer (or integrate with) document automation and process automation options.

CYBERSECURITY

Hackers and thieves used the pandemic as an opportunity to upgrade their skills. Law firms must respond to that threat with enhanced cybersecurity policies. Control the hardware that the firm uses. Protect documents. Become well-educated about all the ways that hackers attack and invade. Prevent and educate. Cybersecurity requires constant attention.

USE CUSTOMER-RELATIONSHIP MANAGEMENT SOFTWARE

Customer-relationship management software helps to manage client relationships. Such software can help track referral sources and leads and can create reminders for following up with clients. Our firm uses it to keep track of and acknowledge client birthdays and various other interests.

CONSIDER PROVIDING A HIGHER LEVEL OF SERVICE

Many lawyers stockpile work on their desks to make sure they can meet their billable-hour requirements. Worrying about having enough work is typical. Stockpiling work can cause project management and turnaround-time issues.

For those with ultrahigh net worth clients, consider the following concierge services similar to the ones used by the medical profession:

- Charge a higher rate and take actions to make that rate worthwhile to your market.
- Limit the number of clients that you take so that you are more available to clients.
- Provide quality portals.
- Use technology to support asset tracking and dealing with digital assets.
- Hire a concierge to take calls from clients.
- Create a network of quality providers that offer related services.
- Engage in collaborative planning processes for your clients with other professionals and advisors.

MAKE INNOVATION A PART OF YOUR PRACTICE

The pandemic emphasized the obvious need to use technology differently to work and connect with clients. Consider the pandemic as having provided an opportunity to rethink the way we serve clients. Innovate and flourish. 

Smart solutions to help you do more—seamlessly.



Wealth Docx® and Wealth Tracx® integrate effortlessly to provide all the drafting tools and technology solutions you need for estate planning and trust administration.

You already know that Wealth Docx brings you cloud-based document drafting software for drafting basic to complex wills and trusts, plus the most comprehensive suite of solutions for charitable planning, asset protection, and retirement. But did you know that when it is time to administer a plan, Wealth Tracx provides an all-in-one solution with everything you need to oversee the administration of a trust from start to finish?

Talk to your Member Services Specialist today to learn more about how WealthTracx can help you do more.