

NEW YORK COUNTY LAWYER

The Beat of New York Law

5 Time Management Tips for Solo Lawyers Who Work from Home

By Jodi Erlandsen, Esq.

Time management for lawyers is a difficult task in a busy law practice and it can be even more challenging for those who work from home. It is easy to get sidetracked when you work in the same space as your TV and refrigerator. Smart attorneys implement simple time management plans into their law practices so that they can be better at their jobs and build their businesses while also spending more time doing what they enjoy. The pleasant reality is that working from home can be even more productive and efficient than working from an office (after all, the commute is short!) and doing so can save on firm overhead. In fact, by incorporating five simple procedures into a law practice, an attorney working from home can increase productivity and improve career satisfaction at the same time.

The five essential tips for effective work-at-home time management are:

1) Get Up Early and Work Out First

Just as “the early bird gets the worm” in a corporate setting or at a big firm, the same is true for solo lawyers who work at home. Set a time to be at your desk every morning



to begin work even if you are in between matters. If you are not handling a client-related urgency, there is always filing, billing, networking or legal reading to be done instead. Establishing a regular work routine sets boundaries with your family, increases productivity and simulates work outside the home. To really be your best, schedule daily work-outs beforehand. Whether you head to the gym or exercise

at home, you will have crossed a critical “to-do” off your list before even starting your work day, you will feel energized and motivated and, instead of working out, you can spend time with your loved ones when they come home in the evening.

2) Dress the Part

It is sage advice to “dress for the job you want, not the job you have.” The same

applies in your home office. If you hang around in your pajamas like it is a lazy Sunday morning, then you’ll likely accomplish the same amount of work. Alternatively, if you dress more like it is Monday morning at the office, then those are the results you will get. Show up to your desk in some version of business casual each day and you will perform at a higher level (not to mention that you will be ready if someone knocks on your door). Jeans are fine if you have no appointments that day; just make sure you are suitably dressed, well-groomed, comfortable, etc. and ready to work at the scheduled time. For **all other business**, a suit should be worn: client meetings, CLEs and legal seminars, committee meetings, even lunches or drinks with former colleagues and friends. Every public appearance is an opportunity to build your network and your business. Be ready.

3) Unplug from the Media

Two of the biggest distractions to those who work at home can be watching TV or social networking. For me, it’s the latter. One quick glance at Facebook easily morphs into an hour of scanning people’s silly personal posts. The key is to { See Tips for Solo on page 2 }

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Electronic Filing: A Paperless Future in New York State Courts

By Clara Flebus, Esq.

In a nutshell, electronic filing of court documents permits the electronic transmission, service, and filing of court papers, document retrieval through an electronic docket, and instantaneous notification of decisions and other filings in court cases. A recent survey conducted by the National Center for State Courts (NCSC), a non-profit organization that supports improvement in judicial administration in state courts, shows that at least eight states are implementing statewide electronic filing. Participating in this nationwide trend, New York State courts have introduced e-filing to bring the convenience and efficiency of advanced technology to attorneys and the public, and to help the court system to keep pace with the ever-increasing complexity and volume of case filings.

According to the NCSC survey, several states are expected to authorize or expand existing e-filing systems next year. Typically, a state will start by running its e-filing system through a trial phase and establish pilot programs in civil matters that target either certain case types or court locations, or both. Some important objectives of e-filing include reducing the need for storage space and costs related to maintaining archives of paper documents, reducing per-

sonnel time and costs for handling paper, and reducing the environmental impact of maintaining paper records. Jeffrey Carucci, the Statewide Coordinator of Electronic Filing for the New York State court system, believes that “we have momentum to really eliminate the paper.”

The transition from paper to computer records in our state courts first began in 1999, when the New York State legislature authorized a pilot program to test the efficacy of electronic filing in the Commercial Division of New York and Monroe Counties, in cases where the parties consented to it in writing. The success of that program resulted in the continuation of e-filing, and eventually led to its expansion to other case types and locations. Pursuant to legislation enacted in 2012, the Chief Administrative Judge last year issued an order authorizing expanded electronic filing through the New York State Courts Electronic Filing (NYSCEF) system. Thereupon, e-filing became mandatory in all cases commenced on and after February 19, 2013, in New York County Supreme Court, Civil Branch (except for election law cases, Art. 78 proceedings, matrimonial actions, and matters under the Mental Hygiene Law).

Today, New York County Supreme Court, Civil Branch is primarily an e-filing court. The expansion of e-filing continues throughout the state as new counties are

authorized to accept e-filed cases. Mandatory e-filing is currently implemented in Supreme Court in eleven counties for specific types of cases, and in Surrogate’s Court in some counties. E-filing is also available on a consensual basis in certain counties in Supreme Court, Surrogate’s Court, and Court of Claims. “It’s a tremendous cultural change,” Mr. Carucci said. “E-filing will spare attorneys many trips to the courthouse, as well as trips to serve papers on adversaries.”

Indeed, electronic filing offers many benefits to attorneys and their clients. Through e-filing, lawyers can commence an action or serve interlocutory papers at any hour of the day or night, any day of the week. Upon the initial filing, NYSCEF creates an electronic case docket that is simultaneously accessible by all attorneys on the case and provides a useful history of the proceedings at a glance. Any time a document is uploaded on the NYSCEF website, either by the parties or the court, all participating attorneys and self-represented parties receive a notice by e-mail. Thus, when the court renders a decision, attorneys are immediately notified by e-mail, and can obtain a copy of the decision either from the link in the e-mail message or by accessing the electronic docket. There are no fees to use NYSCEF other than the normal court

{ See E-Filing on page 2 }



TIPS FOR SOLO

Continued from page 1

be regimented about the time spent so that you will get your fix without delaying your work. I liken it to a balanced diet which leaves you satiated rather than cutting all sweets and carbs at once; the latter does not work in the long run. So pick your poisons, and the times you will enjoy them, and then stick to that program. For me, I enjoy my morning cup of coffee while I scroll through email, Facebook, LinkedIn, a few blogs, etc. I keep the morning news on TV in the background. After a half hour, I turn off the TV and walk away from the iPad. Period. I schedule brief work and news related “tech checks” about three times during the day so I do not miss anything important, but I restrict anything else until after work. Play with this step and adjust it to your priorities.

4) Create an Organized and Pleasant Work Space

Cleaning your desk and making it an organized, beautiful place to work can boost your productivity. Consider a new chair or adding some plants or a fish in a small bowl. With a clean work area the only thing left for you to focus on is your work. Think about a space in your home where you feel comfortable, there is plenty of natural light (add appropriate overhead and task lighting as well) and it is

quiet. Consider feng shui principles such as avoiding having your back to the door and eliminating furniture “obstacles” such as an oddly placed file cabinet you have to walk around each time you enter the room. One of the most important things you can do for yourself in this regard is to create LOTS of usable desk space. Do not crowd the desk with supplies, folders, a lamp, a printer, business cards, tchotchkes, etc. Use the rule of three here: keep the three things you use most regularly on your desk top (maybe your laptop, calendar and notebook). The rest can go in drawers and on nearby shelves. Keep the printer/scanner close on a console or under desk cabinet, but do not take up valuable desktop real estate with it. A large, empty work space is visually appealing, increases productivity and keeps you focused. As a bonus, it is also easier to keep clean. Finally, set up paper and electronic filing systems that work best for you and file in real time. Chefs wisely encourage us to clean our kitchen as we go so that when the fine meal is cooked we can relax and enjoy it, rather than spend time scrubbing and tidying. If you save every attachment you open before closing the respective email and file every piece of paper without first “piling it,” you will not have to spend hours at a time filing when you could be working or, better yet, doing something fun. In addition, you will not have to waste time searching for documents during your work day. You will always know where to look. For great tips on creating a file system that works, I recommend reading *Leave the Office Earlier* or any other books by productivity pro Laura Stack.

5) Schedule, Schedule and then Schedule Some More

Nothing distracts a lawyer working

from home like unexpected interruptions and fruitless attempts to multi-task. Taking unplanned calls the moment they come in and jumping from one client matter to another take up more time and represent a lack of control. Keep on track by maintaining regular work hours and, as much as possible, changing course only for scheduled appointments. And be a tireless scheduler! Schedule blocks of time to work on particular client matters, attend to personal matters, make or return calls, clean your home, attend networking events, shop online, pick up your children, etc. Regardless of whether it is for your personal or professional benefit, if you will be doing something, then put it on your calendar. If a client would like to discuss something, ask her if you can set up a time to chat. Calendaring everything you need to do will limit surprises, keep time spent on certain activities from creeping into the time needed for others and ensure that you are on time for meetings. If you would not schedule time for something during the work week if you had a manager to whom you had to report it, then be that manager—handle it on the weekend or at night. Try to schedule efficiently as well. If I need to meet a client in Connecticut, then I will make an appointment with my dentist there for the same day as well as meet up with my Connecticut-based women’s legal network for drinks that evening. I will plan to use the train ride to catch up on legal reading and respond to emails which require more thought.

It’s helpful to schedule according to your productivity rhythm as well. If you tend to lose steam in the middle of the afternoon, then book a “tech check” (see step 3 above) or outside appointment at that time, maybe something allowing for a brisk walk. Finally, at the end of each

day, schedule your work priorities for the next. In addition to periodically updating your ongoing and probably long to-do list, quickly write down on a post-it note the three most important tasks you must accomplish tomorrow. If you do this, you will not forget them or get distracted by other less important activities. Everyone loves to cross items off a list; cross off all three by the end of tomorrow, toss the post-it note and you win.

Bonus Tip: Network Every Week

One additional step to take in your time management journey is to network outside of the home each week. It may seem counterintuitive to spend time away from your desk, but while networking will help you in unsurprising ways such as building your client book, increasing your name recognition and keeping your legal knowledge current, it will also prevent you from becoming isolated or bored. Boredom is enemy number one for work-at-home attorneys. Boredom leads to Netflix marathons and reorganizing sock drawers instead of getting to work. So get to those networking receptions, but remember to add them to your calendar and wear a nice suit.



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E-FILING

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fees. Any document can be printed from the electronic docket at no charge. Court fees can be paid online by credit card (Visa, MasterCard, or American Express) at any time. E-filing is also convenient for Justices and their staff because it provides immediate access to the case file at any time, from anywhere.

New York County Supreme Court, Civil Branch has issued a Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases, which explains how traditional courthouse procedures are applied in e-filed cases. The Protocol can be found on the court’s website (www.nycourts.gov/courts/1jd/supctmanh). Among other things, the Protocol provides detailed information on: how to file papers generally, motions on notice, and orders to show cause; how to submit a request for judicial intervention; how orders are processed; and how to obtain entry of judgment.

NYSCEF is simple and easy to learn. On its website (www.nycourts.gov/efile), NYSCEF offers a wealth of training resources, such as links to a User’s Manual, Frequently Asked Questions, a PowerPoint presentation, and a “Training System.” The training system is distinct from the “live system” used in real cases, but proceeds in the same manner. A user can experiment with the capabilities and functions of NYSCEF by making test filings in simulated cases in the training system. There is no charge to practice on the training system, which operates with an ID and password that are different from the live system. The training system is not connected to the County Clerk’s office

or the court’s operational offices and any attempt to make a real filing through the training system will be a nullity. In addition, the courts’ E-Filing Resource Center offers a free live training class to attorneys and support staff every week. The class provides 2 CLE credit hours. The Center also administers an online one-hour live demonstration of the system each month, at no charge.

A user of NYSCEF should be aware of the rules governing electronic filing. Uniform Rule 202.5-bb applies to mandatory cases, while Uniform Rule 202.5-b applies to consensual cases. The latter sets forth many procedures, including obtaining IDs and passwords, filing procedures, signing of documents, and service, which also apply to mandatory cases. The Chief Administrative Judge has issued a series of orders that specify where consensual e-filing and mandatory e-filing are in place throughout the state. Both the e-filing rules and the administrative orders can be found on the NYSCEF website.

Implementing e-filing statewide, court officials believe, will eventually mean perhaps half a billion fewer pieces of paper annually. Mr. Carucci stressed that “e-filing is not just putting your court documents out into cyberspace; it is actually filing them in court.” So far, NYSCEF has been very successful and the number of lawyers or pro se litigants who opt out of the mandatory program is continuously decreasing. Mr. Carucci hopes to expand e-filing into the Appellate Divisions as well.

10 POINTS OF INTRODUCTION TO NYSCEF

1. Who Can Use NYSCEF

To use NYSCEF, the filer must be an attorney admitted to practice in New York State and registered with NYSCEF. Once registered, the attorney can use NYSCEF in multiple cases. Attorneys admitted pro hac vice or self-represented litigants may register, but only for one case. Filings can also be made on behalf of counsel by an authorized filing agent, such as an attorney service company, registered with NYSCEF.

2. IDs and Passwords

User IDs and passwords issued for NYSCEF are different from those obtained for E-Track, a case tracking service for active Supreme Court civil cases, and PACER, the electronic public access service used by the federal courts. Thus, all IDs and passwords should be recorded and kept separately.

3. Service of Process

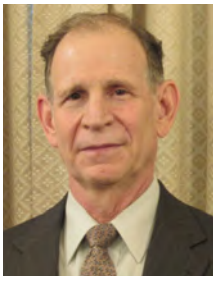
Service of commencement papers in an action is made in hard copy, pursuant to Article 3 of the Civil Practice Law and Rules. Service of interlocutory papers is made electronically through NYSCEF, on participating parties. Commencement documents can be served electronically only when the defendant agrees to accept such service.

4. Opt Out

There is an opt-out form for mandatory cases, posted on the NYSCEF website, for self-represented parties who do not wish to use NYSCEF or attorneys who lack the equipment or knowledge required to use the e-filing system. It should be noted that anyone who has opted out must be served in paper and will serve the other parties in paper.

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Message from Lew Tesser President of NYCLA Renewal



Dear Readers:

When I was inducted as President this past May, I talked about how NYCLA would move forward in a time of change and maintain our special brand while satisfying the interests of our members. Here's how we've met our goals thus far:

- “Club NYCLA” focuses on helping attorneys at all stages of their career build professional relationships and create a sense of community for members. Initiatives include happy hours like the ones held in September and October at local bars and restaurants.
- The recently opened private **Member Lounge**, located on the first floor at the Home of Law and equipped with cable TV and complimentary coffee and tea along with outlets to charge your electronic devices, is open to all members. It's a place to relax during a break from the Library, before or after a meeting or event, or a place to rest your feet and gather your thoughts before or after court.
- We continue to offer members **complimentary conference space** at the Home of Law. Our elegant building features meeting rooms that you may reserve, for a 2-hour period **to meet with a client at no charge**. For more information, contact Dianna Lamb at 212-267-6646 x0 or dlamb@nycla.org.
- NYCLA's CLE Institute continues to bring **continuing legal education** to the next level – whether you are a newly admitted attorney, an attorney in tran-

sition, or a seasoned practitioner. Our unparalleled roster of speakers allow our members to not only learn from noted experts in their fields, but to also ask them questions and network. For example, the December 10 Fashion Law Update program will help attendees gain an understanding of the latest legal issues affecting fashion law.

- Membership includes **preferred pricing on CLE** seminars and webinars, professional and personal development opportunities, research services through the NYCLA Library, publications, and discounts on insurance products, publications, UPS, or to places like Equinox Fitness Clubs, Brooks Brothers, and Zipcar, just to name a few.

As you can see, NYCLA helps its members succeed across the board. **I encourage you to renew your membership for 2015** to continue taking advantage of our unparalleled offerings. Expand your professional network through our online Career Center, open Committees, and networking events, and elevate your professional value and credibility through our *pro bono* projects. NYCLA was the first major bar association to admit all lawyers regardless of their ethnicity, religion, gender, etc. We continue, over 100 years later, to be the open, progressive, inclusive bar association.

I hope to see you at the Home of Law in 2015. Please email me at ltesser@tesserryan.com or tweet me @NYCLAPres and **let me know how NYCLA can work for you.**

Lew Tesser, President
New York County Lawyers' Association

Embracing Technology in Practice

By Jamie Mogil, Esq.

When was the last time you visited the stacks in the library to conduct legal research? If you went recently, you are a rare breed of attorney. Of course pen and paper habits are hard to break and often preferred, but the legal profession has changed as technology has grown. This brings to mind an attorney I helped draft a motion to dismiss brief in a federal litigation matter. He told me to do all the research and write him a memo because, “you're faster and better at all that technology stuff.” Yes, there are those holdouts for whatever reason – fear or dislike – who have not embraced technology. However, the American Bar Association amended Model Rule 1.1 to require that lawyers stay abreast of technological changes. Technology is no longer a tool or advantage in practicing law; it is a necessity.

Firms are now going “virtual.” This can have various meanings including, eliminating a physical office and delivering services to clients online; going paperless for solo practitioner to a very large law firm; or maintaining a centralized meeting place but working mostly from home or a different location from the centralized meeting

place. Regardless of the meaning, having a virtual practice relies on the use of technology. Technology makes practicing easier and more efficient. It can also save you money and spare a few trees! After practicing at a “brick and mortar” firm for close to a decade I started freelancing for solo practitioners and small firms looking to outsource their workload to an experienced litigator. Because of technology I work for attorneys across the country and speak to lawyers I have never met in person, but still provide quality work product for them. Here is a look at some of the technology I use in my virtual freelancing practice.

The Hardware.

A laptop computer, an all-in-one printer, scanner and fax, a shredder and a smart phone are a good place to start when working virtually. From a technology standpoint, you will need some basic applications and a cloud-based filing storage system but first, the hardware.

Going paperless in a virtual practice means often you are on the move meeting a client or working from a coffee shop after court. Using a laptop allows you to access your files from anywhere. I prefer the MacAir as it is small, efficient, lightweight,

Message from the NYCLA Foundation Giving Back After Great Personal and Professional Triumphs in 2014



Dear Member:

Happy holidays from the NYCLA Foundation! Another year has come and gone, however one thing we can agree on as

lawyers is that the work we do stands the test of time; we are reminded of this by the people we help and those we know we will help in the future. I hope that 2014 has been exceptional for you, your families and your clients. And may 2015 continue to yield greater professional victories and remarkable personal milestones.

In thinking about those professional and personal triumphs (and failures), it is worth noting that much has changed in the criminal justice system over the last decade which has forced us all to re-think our roles as lawyers, and adjust accordingly. No matter what side you're on, we all have a responsibility to reach a fair and right outcome; defendants must be treated fairly and with dignity and victims should receive the justice they seek. The common ground between both sides is the interest of the community we serve—demonstrating that justice is real and even the most confounding and disturbing defendant can receive a fair hearing. This is our obligation to the New York community and undoubtedly what we stand for at NYCLA.

NYCLA is here to reinforce this balance and to continue to provide a professional retreat for lawyers as they evolve in their roles. Whether you are taking a CLE course, attending a social event, coming to use our library, or volunteering in one of our pro bono programs, NYCLA offers a professional environment founded on inclusion and community. There is one caveat to this prestigious and enterprising organization that offers so much to the legal community, and that is it takes more than your just dues and your participation to keep it going. It takes real donations from the community and more, to support all of the wonderful programs NYCLA has to offer.

So, as we bring 2014 to a close, I hope you consider giving an additional donation to NYCLA in addition to renewing your dues. If you participated in the #GivingTuesday and #CyberMonday campaigns, thank you for your generosity and willingness to give to NYCLA. However if you did not, there is still time to get your tax deductible donation in—you have until December 31st! I hope you will give to NYCLA as a token of your gratitude for the successes you've experienced and lessons you've learned in 2014, both professionally and personally. I know, I will.

Carol Sigmond
President, NYCLA Foundation

2014 Second Century Fund Campaign

Help support NYCLA by contributing to the NYCLA Foundation's 2014 Second Century Fund Campaign.

Your donation to this annual campaign helps underwrite NYCLA pro bono programs, provide resources for new lawyers, and renovate the Home of Law. You can donate by check payable to the NYCLA Foundation or online by clicking Giving to NYCLA at www.nycla.org. Please give generously to the Foundation, a 501 (c) (3) organization. Your contribution is deductible to the extent provided by law.

Thanks and Happy Holidays from the NYCLA Foundation!

syncs easily with my iPhone and I prefer the OS operating system. However, there are other attorneys that use a desktop and carry an iPad or other tablet for accessing files on the go. An all-in-one printer, scanner and fax is a must. You may rarely print and never use the fax (as you can use fax services via the web) but you will need the scanner. No need to let documents pile up and wait to be filed because with a scanner the documents can be added quickly. And you may be wondering, if my practice is paperless, why am I printing? Well there are still a few courts that require hard copy filing or you may send a document to a client. I am a fan of the Epson series but there are plenty of models to choose from depending on your preference. As a side note, make sure if you buy an ink printer that you read the reviews on the ink usage, as you want to avoid spending too much on ink.

Having a shredder goes hand-in-hand with having an all-in-one printer because as soon as I scan a document to store it electronically I shred the document. Use a shredder to avoid the mishaps of inadvertent disclosure that can happen when documents pile up. It also will save you space

and make your work area cleaner. I use a Staples brand shredder that is compact and works great. Again, there are plenty of models to choose from depending on your preference.

Last, I use an iPhone. I talk on the phone but I also use the phone for applications like Harvest and Dropbox, which I explain more below. Have a smartphone is like having another tool to access your files, check or update your calendar and make an efficient use of your time when working virtually.

The Software

Using programs, web-based tools and apps is really where I take advantage of technology in running my virtual practice.

Microsoft Office and Adobe Acrobat. My practice centers mainly on civil litigation. When drafting pleadings and briefs, Microsoft Word is the standard. It allows me to track changes and make comments when exchanging drafts. I also work regularly in Excel to make charts if working on matters involving considerable discovery. With regards to .pdfs, Acrobat is the gold standard. PDFs are the file form when

{ See Technology on page 9 }

Staying Relevant While Staying Home

By Billie Watkins, Esq., District President, Robert Half Legal

Advancements in technology have changed and shaped the workplace in so many ways, and will likely continue to in ways that we can't even imagine yet. And although the legal industry may have adopted the idea of a virtual workplace a bit later than other industries, it is now becoming a more acceptable concept. Offering a virtual workplace helps firms remain competitive in an ever-changing landscape. Now, instead of always having in-person meetings or networking at live events, lawyers have the option of using virtual tools to stay in touch with clients and get ahead in their careers. Legal professionals now have access to tools and information from wherever they are in the world, regardless of where their brick and mortar office is, including: a full digital law library, time-tracking tools, files, documents, and so much more!

In an industry that can have its employees working long hours, the ability to telecommute helps to alleviate some of the pressures on work-life balance without the added expense (and time investment!) of traveling to a physical office. In Robert Half Legal's Future Law Office project, released in 2014, 39 percent of lawyers who were surveyed said the number of law firm employees who work remotely or telecommute had increased in the last 12 months. Of those indicating an increase, 16 percent said their firms plan to redesign office spaces to accommodate an increasingly mobile workforce. The option to work

remotely is certainly a growing trend and a perk for employees who are looking to create a more balanced lifestyle, but beware; this option is not possible or plausible for all roles in a legal office.

Before you jump into working remotely with any regularity, it's important to consider where you are in your career (and where you'd like to be), the relationships that you've built (or haven't yet) and how you will manage your new flexible schedule in a way that will not impact your career path. It's important to feel confident in your relationship with your team members and, especially, your manager. Have you developed a trusting relationship with your manager? Have you proven to them that they can be confident in your abilities to be a self-starter? It's vital to know that you are in good standing when working in a flexible setting – just because the option of flexibility is available to you, remember to be honest with yourself about whether this is a practical working situation for you.

Whether you're just starting or have been working remotely, keep the following tips in mind to ensure that you are making the best possible impression and delivering your best work:

1. Keep consistent hours. Certainly a flexible environment allows you some freedom to choose work hours that may vary from colleagues who are in the office, but you should make yourself available to respond and participate in the goings on of current projects in "real time." Stepping away from your home office, just as your desk, is to be expected, but extended absences should be disclosed to your

manager and team. Just because your colleagues can't physically see that you are not at your desk doesn't mean that you don't have to be accountable for your whereabouts.

2. Keep tech updated and have a backup plan. It should be without question that you must have quick and reliable access to broadband connections so as not to stall any tasks or responses when critical projects are taking place. It will be hard to recover from being the cause of a missed deadline due to being unable to connect to the Internet or being unable to send a large file! Know where you can go in your area (café, library, etc.) in the event of an unforeseen problem with your Internet connection.

3. Make yourself visible. If your arrangement allows for full-time or semi-full-time virtual working, it is vital to be conscientious of the amount of in-person time you get with your manager and teammates. Although phone check-ins can be helpful, when you are able to connect in person, it is an irreplaceable opportunity to strengthen professional relationships, have meaningful conversations and demonstrate your dedication to your role and the company. If you are still growing your career, these touch points will put you at an advantage when there are opportunities for advancement. You don't want the risk of being overlooked because you are never around.

4. Be socially available. Since an impromptu lunch or conversation at the coffee

machine is not possible when working remotely, make sure you're especially vigilant about making your presence known to your manager and colleagues. If your company uses an enterprise social media platform, be sure to participate in dialogues by sharing your thoughts, opinions and ideas. Use all available channels to provide thoughtful feedback; it will let others know that you are still fully engaged even if you're not in the office.

As much as a flexible situation may be desirable for legal employees who want to alleviate some common stresses, keep in mind that it will add a layer of effort to your work situation. To stay relevant and leave yourself open for advancement, it's important to try especially hard when you're working remotely. Using these tips and staying acutely aware and present in all of your interactions with colleagues, you will certainly remain an indispensable team member – regardless of distance.



Billie Watkins, Esq., is District President of Robert Half Legal, overseeing offices in New York, Boston, Chicago and Canada. Robert Half Legal is a leading staffing service specializing in the placement of attorneys, paralegals, legal administrators and other legal professionals with law firms and corporate legal departments. Based in Menlo Park, Calif., Robert Half Legal has offices in major cities throughout the United States and Canada. For more information, visit www.roberthalflegal.com.

“Tune In!” (Part 2 of “Don't Let Your Audience Upstage You”)

By Maria Guida

In the October issue of the *New York County Lawyer*, I presented ways to maintain control of your business presentation when you encounter distractions, interruptions, and difficult listeners. But what about presentation Q & A sessions that may not be “difficult” but nonetheless require a special agility on your part as a speaker? In these moments, it is important to “tune in” to your audience; you must “read” them like a book (or kindle).

Reading the audience involves listening to them and watching them carefully. This is a skill that good stage actors cultivate. The reason is obvious: when we understand something about the listeners' moods, responses, and emotional states, we are better able to respond appropriately to their concerns and needs.

As a skilled attorney, you can use your voice, body language, and even your content in an improvisational way: in ways that you didn't plan but which allow you to function “in the moment”. This will help you respond to the unexpected events which often pop up in the course of a presentation. Your delivery and timing can serve the moment at hand.

Eye contact is particularly helpful in this regard. The more you speak in front of groups, the easier it becomes to make eye contact. The ability to pay close attention to the audience in a relaxed way is a key factor in becoming flexible: flexible enough to say things that were unplanned and even discard parts of your presentation that you previously thought would be appropriate or even great. Slowing down enough to take real notice of your listeners is a key ingredient in the process.

Here are two presentation situations where “tuning in” to audience is especially important:

1. Some audience members will simply not accept a speaker's message. They may just be stubborn people or have another agenda: Be sensitive to the fact that there may always be detractors in your audience. Outside of the courtroom (when your #1 job is to convince), don't try

to persuade everyone of everything. You may not be able to do so in a business presentation, because some people never see a different side of things. If you have agreement/understanding from most of your listeners, causally move on. Spending too much energy on one person can damage your rapport with the rest of the audience. Tune in! Be aware of the energy in the room to determine when it is time to continue.

- Expect that questions during your presentation and certainly during the Q & A Session may be best answered at another moment. If the answer to a question is brief, briefly answer. If the answer would truly be complex, tell the questioner that there will be some time at the end of the presentation when you will be able to respond in depth. When audience members ask questions that are not objections
 - If your answer can be brief, answer the question briefly
 - If your answer will be complex, take time to connect deeply with the questioner; tune in, and try to determine from her tone of voice demeanor just how hungry she is for an immediate answer. You have the option to tell the questioner that there will be some time after the presentation when you can respond in depth.

In both of these presentation situations, make special efforts to “tune in” to your audience. Listening to and making eye contact with them are powerful skills that will help you understand your listeners, respond effectively, and enhance your credibility.



Maria Guida is a speaking strategist, executive coach, and Broadway actor. Having worked with Paul Newman, James Earl Jones, and Kevin Kline, she helps savvy attorneys enhance their credibility and generate business by speaking with poise, passion, and persuasive power. Her delighted clients include Shearman & Sterling, Allen & Overy, and Paul Weiss. Contact her at 718-884-2282 or at maria@successfulspeakerinc.com.

The Powerful PDF

By Elan Weinreb, Esq.

With the advent of electronic filing programs such as New York State Courts Electronic Filing (NYSCEF) in various courts and their mandatory adoption in certain cases, Adobe Systems Incorporated's (Adobe) Portable Document Format (PDF) has become the modern attorney's virtual vade mecum. It is a simple truth of modern Empire State litigation that nothing can happen in e-filed cases absent PDF power. However, not every case can be converted from the hardcopy paper realm to the virtual e-filing universe. Like it or not, non-e-filed, paper cases (especially dinosaurs from the late 1990s and the first years of the current millennium) will exist for the foreseeable future. Nevertheless, even in these classic, hardcopy cases, the PDF can optimize motion drafting and publication.

PDF Facilitates Motion Drafting

Just as football quarterbacks formulate plays and throw passes for a living, so do litigators draft and publish motions to put bread on the table. Adobe's PDF is one of the most powerful and versatile tools for drafting and publishing hardcopies of any motion (or really any document, as the very document you are reading is an actual PDF file).

[P]erfected over 20 years, . . . PDF is now an open standard for electronic document exchange maintained by the International Organization for Standardization (ISO). When you convert documents . . . to PDF, they look just like they would if printed. . . . When you share a PDF file, virtually anyone can read it . . .

Adobe Systems Incorporated, "About Adobe PDF" (available at <http://www.adobe.com/products/acrobat/adobepdf.html>) (last visited Oct. 14, 2014).

It thus is not surprising that both New York state and federal courts require the use of PDF files in their respective electronic filing programs.

While the benefits of a standard platform afforded by PDF use are apparent, motion drafting benefits are less easily discerned. Nonetheless, they certainly exist and are centered upon a key concept: **accessibility and retrieval of information**.

Any motion author knows that information is a motion's blood. The typical affidavits or affirmations and memoranda of law that comprise motion papers consistently reference either factual information (e.g., pleadings and exhibits) or legal information (e.g., cases, statutes, and rules).

ALL OF THIS INFORMATION CAN BE INCORPORATED WITHIN PDF FILES AND THEN RETRIEVED FROM ONE SPECIALIZED PDF FILE.

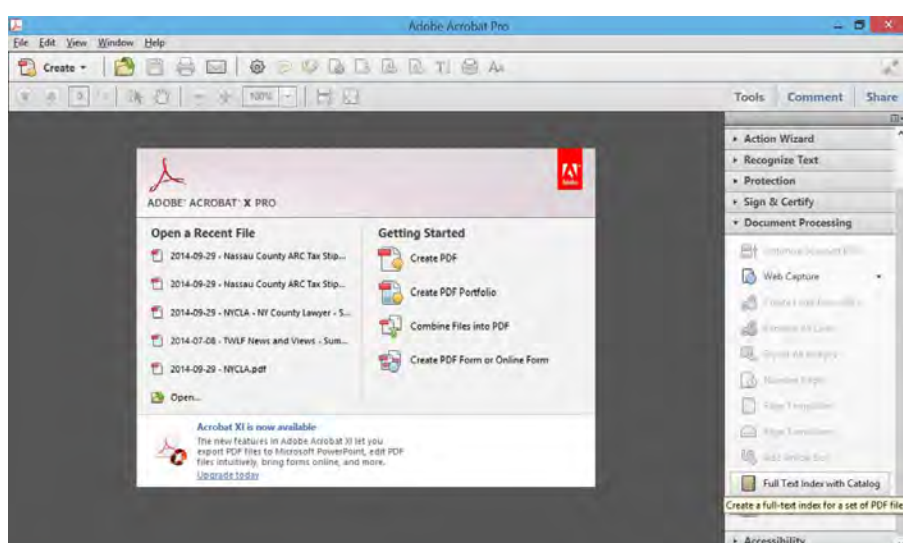
This capability exists as a result of Adobe Acrobat—the program most widely used to create and edit PDF files—containing an on-board search engine. If one uses it optimally, he or she can greatly reduce the time spent searching for factual or legal information while drafting. Here's how to do this using Acrobat X Professional running on a Windows 8.1 Pro system:

- **Compile Motion Information** — By the time you're ready to commence drafting a motion, you should know what factual and legal information you will need to complete the drafting. Compile a list of all documents representing this information.

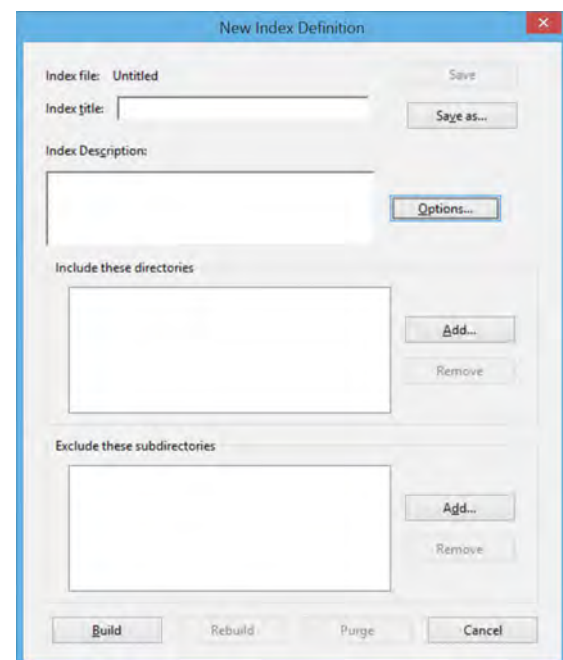
Once you have done so, review the list and ensure that all documents on it have been converted to PDF files either by: (a) having been scanned and processed using Optical Character Recognition (OCR) so that they are text-searchable (meaning that you can use Acrobat's "Find" (Ctrl-F) function to successfully search for words or phrases in a given PDF file); or (b) having been previously converted to PDF from their respective native formats (as is done when one either "saves as a PDF" or "prints to PDF" in Microsoft Word).

Place all of these PDF files into a single, contained folder/directory that you create on your hard drive, network drive, or other virtual work location ("Containment Directory").

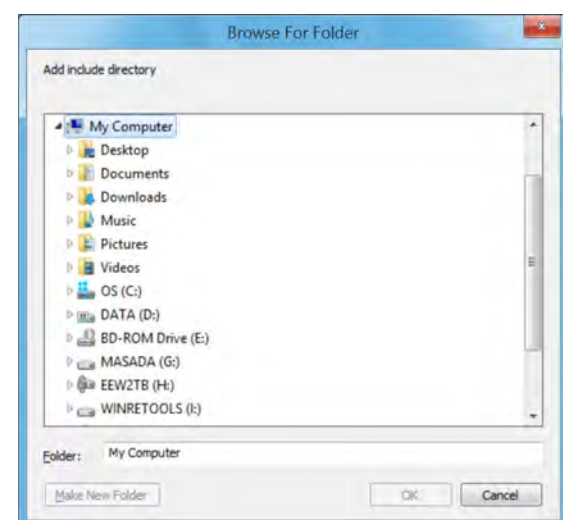
- **Index the Information** — Acrobat uses an indexing system to facilitate the location of words and phrases in the PDF files that are placed into the Containment Directory. To utilize this system, first close any open PDF files. Then, select the "Tools" pane from the start-up screen of the program and expand the "Document Processing" sub-menu from within that pane. Most options will be grayed out except for "Web Capture" and "Full Text Index with Catalog." Select the latter option, as per the following screenshot:



Next, select "New Index." The following screen will appear:



Next, fill in the "Index title" box as you see fit and then select "Add" from the "Include these directories" section. The following screen will appear:



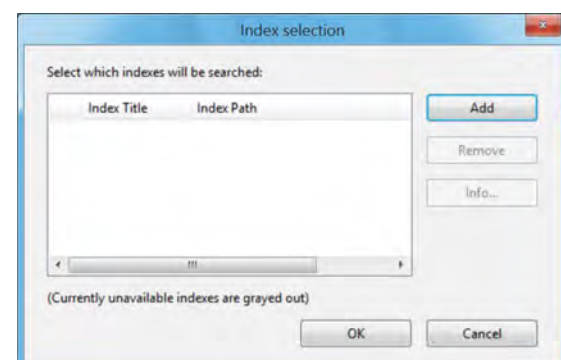
Under "My Computer," select the drive where the Containment Directory is found (I created it on the "DATA (D:)" drive on my system in the preceding screenshot) and proceed to select the Containment Directory.

Once the Containment Directory is selected, select "Build" from the "New Index Definition" screen. A screen entitled "Save Index File" will appear, and Acrobat will prompt you to save a "Catalog Index File" (having the extension *.pdx).

Assign a name to the "Catalog Index File" (I would use the format "[YEAR]-[MONTH]-[MOTION RETURN DAY] Motion Papers Index - [PLAINTIFF] v. [DEFENDANT].pdx") and save it to the Containment Directory itself.

- **Searching the Information** — If you've done all of the above, then congratulations! You're ready to search all motion information in a virtual, paperless, and centralized environment. Here's how:

First, from the opening screen of Acrobat X Professional, press "Ctrl-Shift-F." This will bring up a screen entitled "Search." Select "Select Index" from the "Look In" drop down menu, and then select the *.pdx file that is located in the Containment Directory (a/k/a the index file that you previously created) by clicking on the "Add" button, as per this screenshot:



{ See Powerful PDF on page 7 }

CLE Institute Announces On-Demand, On-line Courses Now Available on www.nycla.org



The CLE Institute is pleased to announce that its exceptional content is Now available on our website and administered by the CLE Institute!

Watch your favorite programs according to your schedule, right from your computer. If you missed a live program, no need to fret as you can now watch it On Demand. No need to wait for the DVD to come in the mail... just order the course off our site and watch instantly! Individual courses and Create your own 24 credit custom bundles are now available.

Also be sure to check out the MP3 Audio Programs and Bundles available at [CLE On The Go](#)



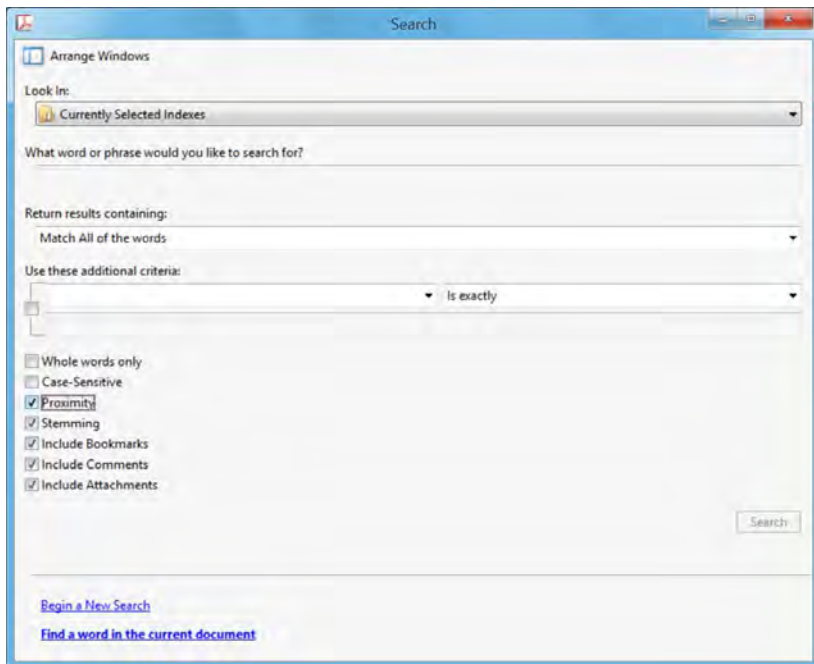
www.NYCLA.org

NEW YORK COUNTY
NYCLA
LAWYERS' ASSOCIATION

POWERFUL PDF

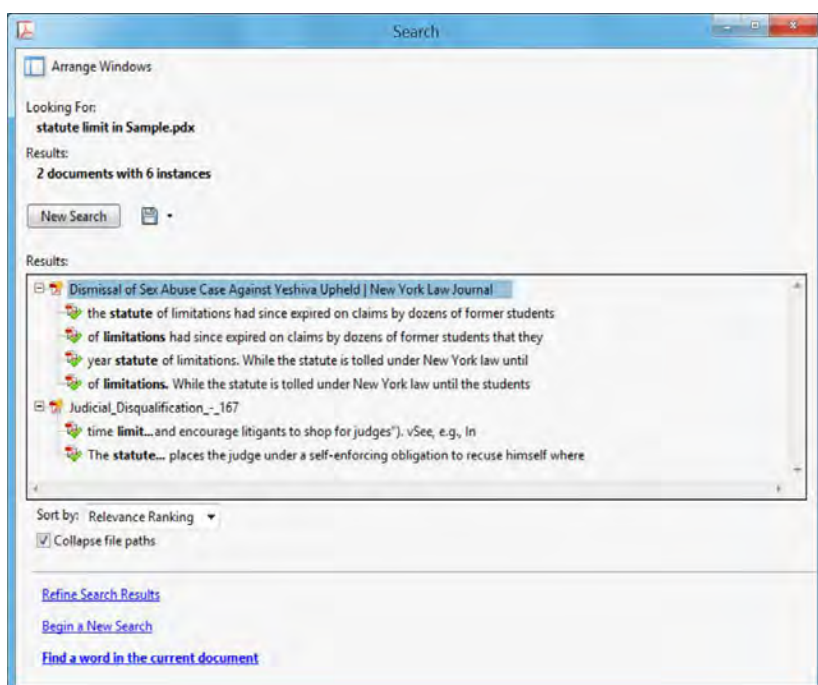
Continued from page 5

Click “OK.” The “Search” screen will return, this time with “Currently Selected Indexes” selected from the “Look In” drop down menu. Select “Match All of the words” from the “Return results containing” drop down menu, which will unlock “Proximity” searching, as per this screenshot:



You can now search all motion information for various terms appearing within a specified number of words (which can be specified by pressing “Ctrl-K,” selecting the “Search” category on the left side of the screen, and then modifying “Range of words for Proximity searches” accordingly). The simple syntax for running a search is as follows: “[TERM1] [TERM2].”

As an illustrative example, I ran the search “statute limit” to target the term “statute of limitations” using word stemming and a proximity limit of thirty (30) words. The search was run against a “dummy”/test index file called “Sample.pdx.” Here are the results:



By using proximity searches that allow searches against all motion information in a virtual, centralized, and paperless environment (namely, the *.pdx file), one can significantly accelerate motion drafting, even if one adopts the common practice of leaving citations blank and then having support staff fill them in at a later time. The latter, who should be instructed in how to search *.pdx files, will most certainly be grateful for the time saved over having to use the traditional “human eyeball” method to fill in citations.

PDF Facilitates Hardcopy Motion Publication

When one finishes drafting motion papers, Adobe’s PDF has additional utility as a motion publication tool. Specifically, the versatility of PDF allows for multiple PDF files to be combined into one large PDF file via various methods (one of which is discussed below). This combination streamlines hardcopy motion publication while significantly mitigating the risk of publication errors such as missed pages or misplaced exhibits (as well as lost time and materials that are the consequences of such errors).

- **Combine and Conquer** — Remember all of the PDF files that were stored in the Containment Directory and used for establishing the *.pdx file that facilitated motion drafting? That very same Containment Directory can be used for motion publication, as illustrated in the following hypothetical scenario.

Assume that you have drafted a Litigant’s Affidavit that has been duly executed and notarized in support of a motion for summary judgment in a state court non-e-filed case. Assume further that you have ten exhibits to accompany this Litigant’s Affidavit. All exhibits have been previously saved as PDF files in the Containment Directory and

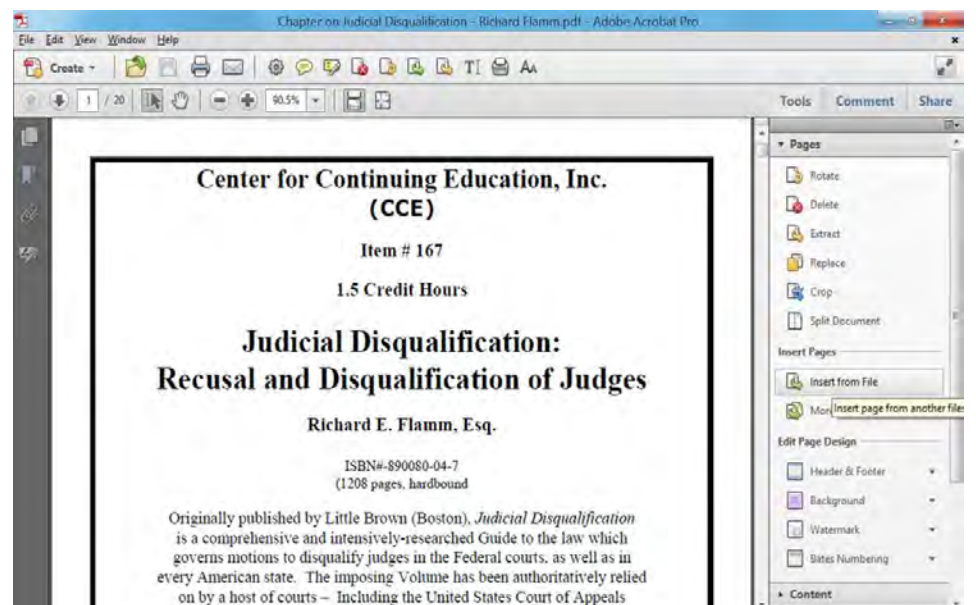
are twenty pages each, for a total of two-hundred pages of exhibits. Finally, assume that the Litigant’s Affidavit and any other ancillary papers that could be attached to it (such as an Affidavit of Service or litigation back) total ten pages.

You need to assemble five complete service copies of the Litigant’s Affidavit and accompanying exhibits (which practically means that you will be using one thousand and fifty pages of paper).

DO NOT GO (OR SEND SUPPORT STAFF) TO A COPY MACHINE WITH THE ORIGINAL LITIGANT’S AFFIDAVIT AND ACCOMPANYING EXHIBITS TO PRODUCE THE HARDCOPIES!

Instead, first scan the original, executed Litigant’s Affidavit and save it in the Containment Directory as a PDF file. Then:

- 1) Open up each one of the ten exhibit PDF files that are in the Containment Directory in its own window.
- 2) Go into your favorite word processing application and create an exhibit coversheet for each of the exhibits. (A coversheet is a document containing the words “Exhibit [X],” where “[X]” is the number or letter of a given exhibit.)
- 3) Print these exhibit coversheets as PDF files and save each coversheet PDF file to the Containment Directory. When you are done saving each file, proceed to close it.
- 4) Return back to each of the ten exhibit files that are in the Containment Directory and are currently in open windows.
- 5) For each of the exhibit files, from the “Tools” menu, as in the screenshot below, select “Insert from File.”



- 6) Insert each relevant exhibit coversheet BEFORE the first page of each exhibit file and then save each of the ten exhibit files using their original filenames.
- 7) Now, open the PDF file of the original Litigant’s Affidavit and proceed to insert—using the “Insert from File” feature highlighted in the preceding screenshot—each one of the newly-saved exhibit files AFTER the last page of the Litigant’s Affidavit file.
- 8) Once all ten exhibit files have been inserted, proceed to insert an Affidavit of Service or any other similar document such as a litigation back that would normally appear at the very end of the Litigant’s Affidavit. **Then, immediately save the Litigant’s Affidavit (which now includes all exhibits) in the Containment Directory.**
- 9) You’re now ready to publish all copies of the Litigant’s Affidavit. Press “Ctrl-P” as one normally does in printing copies, set the “Copies” option to five, check the “Collate” option, and let your printer/copier go to work.
- 10) Once the five copies have printed, proceed (or instruct support staff) to place physical exhibit dividers/tabs either directly in front of (my preferred method) or in place of each exhibit coversheet. While it is still possible that these tabs/dividers will be misplaced, at least no pages will be missing in each copy unless your printer has run out of paper. Proceed to bind or otherwise assemble each of the copies using prong fasteners or similar devices.

The above-described method above for using a single, consolidated PDF file as a virtual foundation for the hardcopy publication of motion papers is by no means unique. Other, arguably more efficient methods exist, including but not limited to those that utilize programs other than Acrobat X Professional. Nonetheless, I believe that the method outlined above is the most straightforward for the novice Acrobat user.

Irrespective of which method one chooses in working with PDF files, the fact remains that using PDF as a tool to facilitate motion drafting and hardcopy production saves time, money, heartache, and effort. The PDF certainly is useful—perhaps even essential—for any attorney who wishes to operate a paperless or “less-papered” law practice. Moreover, while initially learning how to use PDF in motion drafting and hardcopy publication involves several steps and a substantial time investment in the short term (at least the first couple of times one prepares a motion), it is an investment that is highly likely to yield enormous productivity returns, and this has been my experience over the years. Long live the powerful PDF!



Elan E. Weinreb, Esq., Managing Member of The Weinreb Law Firm, PLLC (<http://www.weinreblaw.com>), a civil litigation firm located in Garden City, NY, is a creative and insightful civil litigator who is in his twelfth year of practicing law. Mr. Weinreb is a member of NYCLA’s Solo and Small Firm Practice Committee.

S.D.N.Y. Chief Judge Loretta Preska Delivers First Annual State of the District Address at NYCLA



On, October 23, Southern District of New York Chief Judge Loretta A. Preska delivered the First Annual State of the District at NYCLA, nearly one year after the budget crisis was addressed at the Home of Law. Chief Judge Preska reported that funding has returned to pre sequester levels, and more.

Volunteer Lawyers Honored

On October 23, the “Celebrate Pro Bono Awards” were held at NYCLA, sponsored by the NYS Courts Access to Justice Program, NYSBA, and NYCLA, in honor of National Pro Bono Celebration Week. Pictured are volunteers honored from NYCLA’s pro bono programs: Aaron J. Feinstein (far left); Ben Rossen (second from left); Regina Y. Won (third from left); Timothy J. DeCicco (third from right); Joshua F. Naylor (second from right); and John Spilman, Jr. (far right). Also pictured are Director, New York State Courts Access to Justice Program and Deputy Chief Administrative Judge for NYC Courts Fern A. Fisher (fourth from left) and NYCLA President-Elect Carol Sigmond (fourth from right).



Working Together

Presidents from area bar Associations—New York County Lawyers’ Association, Nassau County Bar Association, Westchester County Bar Association, Rockland County Bar Association, and Suffolk County Bar Association—got together in October to talk about joint initiatives.



NYCLA Holds Minority Judicial Internship Reception



NYCLA's Committee on Minorities and the Law held its kick-off reception for the Hon. Harold Baer Jr. and Dr. Suzanne Baer Minority Judicial Internship Program in October and honored Judge Bundy Smith with the Conspicuous Service Award for his service to NYCLA and his leadership as Chair of NYCLA's Justice Center.

NYCLA Presents Award to EDNY Chief Judge

On November 3 at a luncheon hosted by NYCLA's Federal Courts Committee, the Edward Weinfeld Award for Distinguished Contributions to the Administration of Justice was presented to Chief Judge Carol Bagley Amon (left), United States District Court for the Eastern District of New York by Judge Reena Raggi (right), United States Court of Appeals for the Second Circuit.



TECHNOLOGY

Continued from page 3

saving into my storage system and when electronically filing with the courts. With Acrobat you can redact, add sticky notes, highlight, fill out forms, input typed sections, underline, etc. Everything you may want to do with a hardcopy except ball it up and throw it in the trashcan! You can also make the document searchable by running the built-in optical character recognition (OCR), mark as an exhibit or Bates stamp the .pdfs, which are important for producing documents in e-discovery.

Dropbox or other cloud document storage. Online document management services, or the cloud, allow me to access files and documents from any computer or smartphone with an Internet connection, as well as share them with clients and other attorneys. The idea of the cloud can be intimidating to some attorneys but once you get it up and running, it will be worth it.

Dropbox creates a folder on your computer where you place your files, which stay on your computer or can be copied to

a hard drive if you want another backup of your files. The files in the folder will also be synced to the Dropbox account. This account can be accessed from any Internet access point, anywhere, at any time. The account can be configured for multiple users and computers and that Dropbox folder will stay in sync across all computers for file-sharing. For example, I can send a draft document from a folder to another attorney that has access to that particular Dropbox folder. After that attorney has made edits and saved the document I can access the edited document in the Dropbox folder. Dropbox also enables specific links to documents for viewing without access to all folders. Even better is that Dropbox has an app for the iPhone, iPad, and Android to access your files. Additionally, without getting into specifics, using Dropbox is compliant with the ethics rules. Dropbox makes your paperless workflow accessible across platforms and devices and allows you to maximize your mobility and efficiency.

Billing, Invoicing, Accounting and Timekeeping

Many colleagues use lawyer-targeted

software for firm management that includes billing, invoicing, accounting and timekeeping, such as Clio. While that may work for those colleagues, I have found that for solo practitioners or a freelance attorneys such as myself, it is unnecessary.

I stumbled across Harvest when a freelance photographer friend was on his iPhone and used the Harvest app to take a photo of a receipt to store as an expense. I knew this was technology that would work for me. Harvest is a simple program for time keeping by client, administrative tasks, projects and expenses. You can enter set time or use the time clock. It also tracks expenses and has that nifty feature mentioned above for storing receipts – again, keeping the practice paperless. Invoicing is easy and quick as are the payment options. Additionally, time and expenses can be entered from anywhere and anytime like Dropbox because of the app. The cases, clients, billables, or tasks can all be preset and chosen from a drop down menu. Harvest also has features to generate reports that evaluate the distribution of the time and expenses of the practice. As an added bonus all the information is easily exported to Excel, Google Docs,

QuickBooks or other programs. Now when I prepare papers for my accountant, exporting all the information and sending it to her is that much easier, which saves me time and thus, money.

Legal research

Paying large amounts of money for commercial legal research tools can be a significant drain on a solo practitioner or small firm. Lexis and WestLaw are still the most comprehensive research sources, but there are other cost effective alternatives that I use in concert with the larger, more expensive choices. Fastcase provides access to Federal and State case law and statutes. Fastcase has also partnered with 18 state bar associations to provide free legal research to members of those states' bars. Fastcase also offers a free app that provides free access to case law for all 50 states and access to statutes for most states and the federal government. There are some holes in the offerings including only access to select codes and regulations but again it is worth exploring as a cost effective alternative for legal research.

Another popular free alternative is { See Technology on page 12 }

A roundup of recent national and local news stories featuring NYCLA and its members

Pro Bono Recognition

New York Law Journal

October 29, 2014

<http://www.newyorklawjournal.com/home/id=1202674861263/Pro-Bono-Recognition?mcode=1202617075062&curindex=4>

Weinfeld Award

New York Law Journal

November 4, 2014

<http://www.newyorklawjournal.com/id=1202675370488/Weinfeld-Award#ixzz3I6ryXIKb>

Southern District Kicks Off 225th Anniversary Celebration

Mark Hamblett, *New York Law Journal*

November 5, 2014

<http://www.newyorklawjournal.com/id=1202675524638/Southern-District-Kicks-Off-225th-Anniversary-Celebration#ixzz3ICkxzXv7>

Woman Sues Upscale Gym, Says Exercise Band Left Her Partially Blind

newyork.cbslocal.com

November 5, 2014

<http://newyork.cbslocal.com/2014/11/06/woman-sues-upscale-gym-says-exercise-band-left-her-partially-blind/>

Breakups Can Be Extra 'Woof' When It Comes To Pets

Huffington Post Live

November 5, 2014

<http://huff.liv/1vVsyv0>

Ex-Judge to Help Guide Stop-and-Frisk Remedies

New York Law Journal

November 12, 2014

www.newyorklawjournal.com/home/id=1202676052585/ExJudge-to-Help-Guide-StopandFrisk-Remedies?mcode=1202615069279&curindex=0

Ethics Hotline

The Committee on Professional Ethics accepts both written and telephone inquiries on ethics matters and provides advisory opinions. For additional information, call the members listed below.

December 1-15

Gordon Eng
203-769-8812

December 16-31

David Wiltenberg
212-837-6880

January 1-15

James Walker
212-530-1817

January 16-31

Frederica Miller
212-661-6844

Please Note: Assignments are subject to change.

Questions to the hotline are limited to an inquiring attorney's own conduct under New York's Rules of Professional Conduct. Also, the hotline does not answer questions that are being litigated in a pending legal proceeding or before a grievance committee, or questions of law. Calls to the hotline are confidential but not privileged. For a full discussion of Ethics Hotline guidelines, please see the article "Guidelines on NYCLA's Ethics Hotline," published in the September 2006 issue of *New York County Lawyer*.

Committee Reports

NYCLA frequently reports, comments on, and supports issues affecting the New York legal community:

- ADR Committee Sends Comments to OCA on Proposed Amendment to 22 NYCRR Part 1215 Regarding ADR Language in Attorney Engagement Letters
- Construction Law Committee Issues Report "New York's Scaffold Law and Pending Reforms"
- Tort Law Section Issues Report, "The Scaffold Law and Legislative Proposals that Would Shift the Strict Burden for Workplace Safety from Owners and Contractors to the Injured Employee"

Why Attorneys Need to Have Basic Accounting Knowledge

By **Gary B Rosen, CPA, CFF, CVA, CFE, CGMA**

As an attorney, there is no doubt that knowledge is power. If you possess financial knowledge that your opponent does not, you will have an advantage over your adversary.

Typically, when an individual or a corporate entity (partnership, corporation or LLC) engages the services of an attorney, there is some aspect of the matter which requires the attorney and his or her professional staff to have, at a minimum, a basic understanding of the relevant financial information. A matrimonial action may require an allocation of assets and a lifestyle analysis to be performed. Cases involving licensing issues or business disputes where the partners or shareholders of thirty years have decided they no longer share the same vision require a business valuation analysis. Even litigation resulting from a natural disaster which caused the business to close its factory hinges around a lost profits claim due to the catastrophic event which caused the business to stop operating. The common denominator in all these matters is that the parties involved are either looking to minimize or maximize their financial claim against their opponent.

Understanding basic accounting concepts or principles, which are referred to as Generally Accepted Accounting Principles (GAAP), will enhance your grasp of the matter's financial picture. Additionally, this knowledge will help you to understand

whether you should ask your potential client provide a retainer or request your potential client seek alternative counsel.

It is very important for attorneys to possess the following basic skill sets:

1. Understand the basic principles and concepts of GAAP
2. Become familiar with the objectives and qualities of financial reporting
3. Perform basic journal entries and T-account analyses
4. Identify the different components of a set of financial statements
5. Be able to analyze financial statements
6. Understand the basics of the accounting process including selected business cycles

Indeed, one of the objectives of financial reporting is to provide information that is useful in making business and economic decisions. An attorney who generates revenue through billing clients, typically on an hourly basis, needs to understand the fiscal viability of a matter during a potential client's initial meeting or shortly thereafter. Furthermore, once armed with this knowledge attorneys will be more equipped to manage a client's and their partner's own expectations as to how much a matter is worth, before expending valuable firm resources.

Some of the other areas attorneys should investigate include:

1. Who are the users of the financial statements
2. Financial reporting concepts

3. Materiality
4. Gain contingencies versus loss contingencies
5. Going Concern terminology
6. Cash vs. Accrual methods of accounting
7. The ten elements of financial reporting
8. Understanding the premise and purpose of the financial statements attached to a typical accountants report
9. How an accounting system works from beginning to end
10. Understanding business cycles
11. How is information translated into financial statements from the source data (original books of entry)
12. Key things to look for when evaluating financial statements
13. Understanding disclosures to the financial statements and why these disclosures are often more important than the numbers

Clearly, an understanding of basic financial principles will enable attendees to provide superior service to their clients during an engagement which includes a financial element or aspect.

To assist attorneys in gaining basic financial knowledge, CBIZ MHM, LLC will be presenting a CLE seminar at NYCLA on January 7, 2015, Accounting for Non-Attorneys: Why it Matters. The presenters have extensive experience in the areas of fraud and forensic investigation, matrimonial matters, valuation, shareholder disputes, due diligence as well as other complex litigation areas.

Once attendees understand the relationship between an organization's revenues,

cost of sales (or goods) and the operating, selling or administrative expenses, they will have the keys necessary to unlock the information contained within any entity's financial records. Another benefit of understanding how to read a financial statement is the ability to comprehend when information reported in the financial statements is too rosy or too perfect.

One such example was uncovered during a recent fraud investigation CBIZ MHM, LLC performed where the principal (who was the only member of a single member LLC) defrauded his lender of approximately eleven million dollars. During a downward economic period the principal secured minimally priced contracts to provide services through his organization to national fortune 100 companies. Once these contracts were obtained, the principal was able to borrow 85 percent of the contract amount, under a lending agreement, based upon certain milestones achieved.

The fraud occurred when the principal of the LLC instructed employees to prepare and submit change orders, weekly which ultimately aggregated billings three to four times the initial minimal contract. The principal then took the excess dollars, loaned by his lender, and moved them to a bank account which only he controlled. The corresponding expense charged for the excess loan proceeds was the cost of goods sold. These actions resulted in the top line revenues for the company increasing from \$18.04 million in 2010 to \$26.04 million in 2011, \$33.62 million in 2012 and finally \$35.55 million in 2013. During these same

{ See Accounting on page 11 }



By Dan Jordan

To make suggestions about books, ebooks, databases or library services, please contact Dan Jordan at djordan@nycla.org or phone 212-267-6646, x201.

The NYCLA Library has a special collection of Records and Briefs for New York courts and selected materials from Federal courts. The collection includes the Records and Briefs (aka Cases and Points) from the New York Court of Appeals and Records and Briefs of cases from the four departments comprising the Appellate Division. For the First Department the NYCLA Records and Briefs collection goes

back to 1909. The Second Department collection of Records and Briefs goes back to at least 1940. The Third and Fourth Department Records and Briefs go back to 1960. These materials, and selected materials from the United States Court of Appeals for the 2d Circuit, are sometimes in book form, sometimes in microform and, at least for Briefs, sometimes available in the selected briefs included in NYCLA's Lexis and WestlawNext/Westlaw subscriptions.

Why use Records and Briefs?

Every day the NYCLA Library receives multiple inquiries concerning these items. Those reading at the Briefs are often reviewing them for the quality of the argument the earlier appellate attorneys placed before the court and to see which arguments were accepted. A well written, well-reasoned brief can sometimes quickly help the reader develop a deeper understanding of an area of law. The Record can be used to see the pleadings submitted to the trial court and the decision of the trial court appealed from. One can read the transcript of the trial, including expert witness

testimony. The exhibits submitted to the court are also to be found in the record.

Some NYCLA members read the Records and Briefs from earlier appellate decisions so as to be prepared to respond to any questions from the Court in their matter concerning that earlier decision. NYCLA members may use the microform reader in the South Reading Room with the Records and Briefs at no charge. As part of the NYCLA Library's fee based services, Members may ask the staff to copy all or selected portions of the Records and Briefs and to email the pages as a PDF as part of the NYCLA Library fee-based services. Members may also self-copy at a reduced per page charge and "rent" the microform scanner workstation for larger jobs.

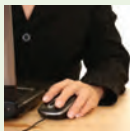
Requests for Records and Briefs are responded to quickly by the NYCLA Library staff. Some orders are for 10 or fewer pages. Most orders are for scores, hundreds or thousands of pages.

All NYCLA members involved in state litigation should consider if using the NYCLA Records and Briefs collection makes sense in regards to their cases.

The NYCLA Library offers wide rang-

ing fee based services for patrons on-site and off-site. If you need a case, an article, a section of a legal treatise, a session law, a section of the annotated statutes from any state or the Federal system, or for an administrative regulation (for New York, historical and current NYCRR provisions) contact reference@nycla.org. Beyond document retrieval, the NYCLA staff can be your research partner and assist you in finding and assembling relevant research materials. Ask djordan@nycla.org about our research services. Qualifying NYCLA Members are encouraged to apply for the New York State Library-Attorney Borrower's Card. Contact Djordan@NYCLA.org for further information about this important program from the New York State Library.

To make suggestions about book, ebook, or database purchases for the NYCLA Library, please contact **Dan Jordan**, Director of Library Service, at djordan@nycla.org or at 212-267-6646, x201.



Electronic Research Center CLE Programs

December

Westlaw: What's New on Westlaw Next December 2 – 10-11 a.m.

1 MCLE Credit: 1 Skills; Transitional

Lexis: Basic Legal Research December 3 – 10:30-11:30 a.m.

1 MCLE Credit: 1 Skills; Transitional

Lexis: Advanced Legal Research December 3 – noon-1 p.m.

1 MCLE Credit: 1 Skills; Transitional

Lexis: Litigation Solutions and Strategies December 3 – 1:30-2:30 p.m.

1 MCLE Credit: 1 Skills; Transitional

U.S. Bankruptcy Court Electronic Case Filing System December 17 – 10 a.m.-12:30 p.m.

2.5 MCLE Credits: 2.5 Skills; Transitional
Member: \$65 Non-member: \$85 Non-legal Staff: \$35

Westlaw: Advanced Research on Westlaw Next December 18 – 1:30-2:30 p.m.

1 MCLE Credit: 1 Skills; Transitional

Westlaw: Estates Planning Research on Westlaw Next December 18 – 3-4 p.m.

1 MCLE Credit: 1 Skills; Transitional

January

Lexis: Basic Legal Research Jan. 7 – 10:30- 11:30 a.m.

1 MCLE Credit: 1 Skills; Transitional

Lexis: Advanced Legal Research Jan. 7 – 12:00p.m. - 1:00p.m.

1 MCLE Credit: 1 Skills; Transitional

Lexis: Case & Statute Citation Research (Shepard's Class) Jan. 7 – 1:30p.m. - 2:30p.m.

1 MCLE Credit: 1 Skills; Transitional

Westlaw: Introduction to Westlaw Next Jan.13 – 10:30a.m. - 11:30a.m.

1 MCLE Credit: 1 Skills; Transitional

U.S. Bankruptcy Court Electronic Case Filing System Jan. 21 – 10 a.m.-12:30p.m.

2.5 MCLE Credits: 2.5 Skills; Transitional
Member: \$65 Non-member: \$85 Non-legal Staff: \$35

Westlaw: Advanced Research on Westlaw Next Jan. 29 – 1:00p.m. - 2:00p.m.

1 MCLE Credit: 1 Skills; Transitional

Westlaw: Public Records Research on Westlaw Next Jan. 29 – 2:30p.m. - 3:30p.m.

1 MCLE Credit: 1 Skills; Transitional

February

Lexis: Basic Legal Research Feb. 11 – 10:30a.m. - 11:30a.m.

1 MCLE Credit: 1 Skills; Transitional

Lexis: Advanced Legal Research Feb. 11 – 12:00p.m. - 1:00p.m.

1 MCLE Credit: 1 Skills; Transitional

Lexis: Litigation Solutions and Strategies Feb.11 – 1:30p.m. - 2:30p.m.

1 MCLE Credit: 1 Skills; Transitional

Westlaw: Introduction to Westlaw Next Feb. 12 – 10:30a.m. - 11:30a.m.

1 MCLE Credit: 1 Skills; Transitional

U.S. Bankruptcy Court Electronic Case Filing System Feb.18 – 10 a.m.-12:30p.m.

2.5 MCLE Credits: 2.5 Skills; Transitional
Member: \$65 Non-member: \$85 Non-legal Staff: \$35

Westlaw: Advanced Research on Westlaw Next Feb. 24 – 1:00 p.m. - 2:00p.m.

1 MCLE Credit: 1 Skills; Transitional

Westlaw: Employment Law Research on Westlaw Next Feb. 24 – 2:30 p.m. - 3:30p.m.

1 MCLE Credit: 1 Skills; Transitional

Unless otherwise noted, courses are free and open to the public. Register at nycla.org. Questions? Contact **Irina Chopinova** at ichopinova@nycla.org or 212-267-6646 Ext. 203.

ACCOUNTING

Continued from page 10

four years gross profits remained relatively flat averaging at approximately 11.5 percent, although the organization went from losing \$546,000 in 2010 to profits in excess of \$300,000 annually for 2011 through 2013. Clearly this company appeared to be doing everything right, sales were up, costs were controlled and net income was stable for the years subsequent to 2010. What the lender did not realize was that they were being repaid with their own dollars which were available due to the fraudulent billings. In addition, in order to "hide" the fact that the billings were fictitious, the principal disbursed funds from his slush fund for his personal benefit purchasing residential properties in his name (which created personal cash flow), purchased cars and SUVs for his family and even went on several extraordinary vacations annually during

the period, all the time coding these disbursements to cost of goods sold.

By understanding the financial statements, utilizing forensic analysis and key data bases CBIZ MHM, LLC was able to uncover a fraud which aggregated in excess of eleven million dollars. In addition to uncovering and quantifying the aforementioned fraud, CBIZ MHM, LLC continued to provide services to the lender in determining what assets were available to the lender for recovery.

Although the analysis required in achieving the results above take decades of experience and hours of time combing through detailed ledgers and evidential matter, attendance at **Accounting for Non-Accountants: Why It Matters** at NYCLA on January 7th, will provide an attendee with the tools required to evalu-

ate the basics of any financial statement. Once this course has been completed, attendees will have the basic knowledge required to allow them to understand and interpret the financial information provided by potential clients, which will allow them to make more intelligent business decisions and properly allocate yours and your firm's resources.



Gary B. Rosen, CPA, CFE, CFF, CVA, CGMA Managing Director is based in our New York Office and is a member of the Corporate Recovery Services group. He has an extensive background in fraud engagements, forensic accounting, complex litigation matters, shareholder disputes,

matrimonial matters and other areas of investigative accounting. Gary testifies as an expert witness in numerous litigation cases regarding agreed upon procedures reports, lost profits, white collar crime, commercial and residential real estate, product liability, and matrimonial matters. He testifies in a variety of federal and state courts Gary has provided accounting, audit and consulting services for numerous closely held corporations, government agencies and international corporations. A frequent lecturer, Mr. Rosen has presented for several organizations including national conferences on topics relating to internal controls, fraud, and audits. Additionally, he is a contributing author for one of Practitioners Publishing Company's audit guides and is a professor at the graduate level at Monmouth University.

E-FILING

Continued from page 2

5. Special Exhibits

A filer who needs to submit unusual exhibits in original form that cannot be practically e-filed, such as oversized maps or electronic recordings, should consult with the County Clerk's E-File Department. Typically, the filer will be required to retain custody of the original exhibit until further directives from the court, and file with NYSCEF a "placeholder" in the form of a Notice of Hard Copy Exhibit Filing. Failure to file such a notice may result in a gap in the official record of the court.

6. Signature

An attorney's affirmation containing a printed signature block and saved in PDF/A format will be deemed to have been signed by the attorney identified as the signatory if it is electronically filed under the user ID and password of that attorney. However, a client's affidavit must bear the image of the actual signature of the client. It must be scanned and converted to PDF/A format before being uploaded on the NYSCEF website.

7. Electronic Record

When documents are filed electronically through NYSCEF, they become the official

court record. Thus, attorneys should be mindful not to use the system to post letters among counsel or exchange discovery.

8. Working Copies

Many Justices require that, in all NYSCEF cases, counsel submit working copies of e-filed documents that are intended for judicial review. Working copies must include exhibits tabs and backs and, for motion papers, the Motion Sequence Number (a number assigned to each distinct formal motion, but not to a cross-motion). Each working copy must bear, as the back page facing out, a copy of the Confirmation Notice generated by NYSCEF when that document was e-filed. If the notice is not attached, the working copy will not be accepted by the court clerk. Attorneys should remember that working copies will be discarded after Justices and their staff have finished using them. Thus, those documents will not be part of the court record if counsel fails to e-file them.

9. Redaction and Sealing

In the past, e-filed documents could be designated "secure" by the filing user and made accessible on-line only to the parties in the case. The "secure" status was repealed

in April 2013. Currently, NYSCEF provides an option to signal that the document contains a social security number. Such a document will be secured from public view in its entirety, pursuant to General Business Law § 399-ddd(6). To seal specific documents in an e-filed case, counsel must make an application for an order pursuant to Part 216 of the Uniform Rules of the Trial Courts. While the application is pending, counsel must file the documents in hard copy form, with a Notice of Hard Copy Submission attached. The court system has proposed a rule governing the redaction of personal identifying information. If such a rule is approved and promulgated, the filer with NYSCEF may be required to redact certain information before filing documents with the system.

10. Entry and Notice of Entry

The County Clerk files decisions and orders, long form orders, and judgments electronically by uploading those documents on the NYSCEF docket. Upon e-filing, an e-mail message is transmitted immediately to all e-filing users in the case, notifying them that an order or judgment has been entered and can be accessed through a link in the message. Counsel

should be advised that such notices do not constitute service of a notice of entry by any party, and do not start the time to appeal. An attorney must prepare a notice of entry with a copy of the order or judgment and serve it on the other party.

Extra Tip

Seeing the mountain does not remove having to pay attention to the molehills: always check Justices' individual part rules! While NYSCEF is instrumental in standardizing rules and creating uniformity, judges still make individual decisions about procedures that help their chambers run smoothly.



Clara Flebus, Esq., a NYCLA member, is an Appellate Court Attorney in New York Supreme Court, who assists in the disposition of international

arbitration related matters before the specialized Part of the Commercial Division. She is the Co-Chair of NYCLA's Foreign & International Law Committee, and a member of the Appellate Courts and Arbitration & ADR Committees, and Young Lawyers' Section.

TECHNOLOGY

Continued from page 11

Google Scholar. Without any charge or membership required, Google Scholar provides fully searchable access to full text state and federal case law and statutes, scholarly articles and patents. Using the advanced search option you can limit your results to opinions from specific federal districts or state courts. Citations within your results are hyperlinked to the relevant opinions making research even easier. In fact, it even includes a "How Cited" tab that shows the specific context in which the case you are reading has been cited by other authorities. The database includes all case law dated over 50 years old, but there is no shepardizing tool to determine if a case is good law as you would have on Lexis or WestLaw. Also, Google Scholar does not summarize the cases or key notes but again, it is free!

Bottom line

This is some of the particular technology I use in my freelance practice to remain virtual and paperless. As technology evolves so to should our practice and our use of technology. In the couple years of my virtual practice I learned different options and know that I will try new programs or platforms as advances are made. In the end it is about making our practices cost effective, profitable and time efficient. Using technology can save time and money and give you back some precious sleep and family time. Why *not* embrace technology?



Jamie R. Mogil, Esq. is a NYCLA member and founder of JRMogil Law, P.C., a firm focused on providing freelance civil litigation support to solo practitioners and law firms. For questions on this article or her practice, she can be reached at jamie@jrmogillaw.com or (917) 965-2407.



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