

Winning the Case and Losing the File

Recently there has been much written about attorneys who lost files in Louisiana as a result of Hurricane Katrina. In fact, it has been reported that one-third of attorneys lost their files due to Katrina.

Approximately one-third of all the lawyers in Louisiana—have lost all their files. The number of lawyers who have sustained major losses is reported to be 5,000–6,000. To make matters worse, some of the courts have sustained wind and water damage losing files associated with past and current cases. With files not being appropriately destroyed, confidentiality of clients' files is at risk. Surviving documents now would be accessible to anyone with ill intent. Unfortunately, the attorneys in devastated Gulf States may not be able to recover their lost files, but it is possible for the legal profession to prevent this loss in the future.

Attorneys have always been expected to protect their clients' files and maintain their confidentiality for possible litigation and review. This responsibility has largely consisted of storing paper files behind locked doors. Some firms believe that files are protected if they pay for professional storage. This has not proven to be true. All paper documents are at risk.

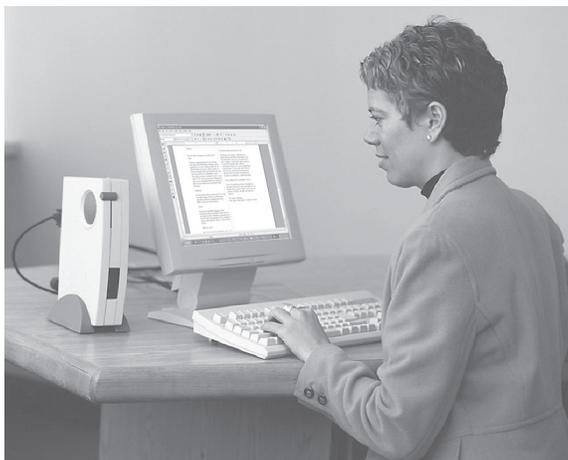
It is understandable that firms have taken on the task of storing valuable paper files given the many hours of work involved in compiling them, and the need for future reference. Typically, these files are stored in boxes. However, firms spend an excessive amount of time and income, usually without compensation, to perform this storage service.

Attorneys in Florida and elsewhere can solve the storage and retrieval dilemma. The solution, EFS (Electronic File Storage), not only prevents damaged and lost files but allows for immediate secure access to all files in a form that can be easily distributed.

The laws and courts are now receptive to receiving and distributing briefs and

other documents in electronic format. The driving force in this change is that courts and other interested parties are overwhelmed with an unmanageable paper load. (Many of you know that the Federal Government is requesting and funding the medical field to convert to EMR (Electronic Medical Records) for quick and easy distribution of medical information). This conversion results in long term savings.

Many of you may realize that EFS makes sense but just how is it done, and who can perform this task? In view of recent events, the answer is less important than your decision to convert to EFS.



Once you have converted to EFS all of your files can be safely stored on multiple CDs in geographically dispersed locations as well as on your firm's computers. In the event of a major disaster it is relatively easy to restore all files from your CDs.

Once you decide to take control of your files with EFS, the rest is straight forward. The recommended first step is to create a "File Retention and Destruction Policy" for your firm. Within this document you should clearly explain and define your policy as it relates to closed files. A part of this policy should be presented to your client at the time of representation accompanied with their signature acknowledging that they have read and understand the process that will be applied to their file. Next you should identify the paper work or items that will

be returned to the client at the conclusion of their case and obtain their signature when the items have been returned. This will eliminate trying to locate clients to return paper work or items when it may be costly or impossible to locate them. Many firms today are recognizing the advantage of having EFS and have decided to charge their clients a minimal fee for this conversion. Firms are providing their clients with the option of having their papers returned to them on CD or paper. Clients appreciate the fact that they can have their files on a CD instead of more paper for them to maintain and save. They value the security and ease of EFS.

Who will do this very labor intensive project of converting paper to EFS? Fortunately you have several options to accomplish this. You may elect to do this in house with your current staff, or you may decide that outsourcing to a professional specializing in scanning legal files is the best, most cost effective solution.

We highly recommend that the critical task of converting your client files to EFS with the proper audit trail and indexing should be left to a professional. Most professionals will be familiar with the many complexities of imaging your files. They will be willing to listen and conform to your requirements while maintaining the integrity of your data. Florida has many professional imaging companies and they would be happy to assist you in this very important task.

Once the project has been started, you have taken a positive step in taking charge of your files and the cost savings will be apparent in a very short period of time. Clients will now have full confidence that their attorney has positive control of their files; they will appreciate that these files are immediately available to them when they have a question or concern. ¶

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