
Contents

About the Authors	xv
Acknowledgments	xix
Preface to the Seventh Edition	xxi
Introduction to 2014 Small Firm Technology Guide	xxv
Chapter 1: Computers	1
Desktop Computers	1
Personal Computers (PCs)	1
Apple Computers (Macs)	5
Laptops	8
Personal Computers (PCs)	8
Apple Computers (Macs)	10
Netbooks/Ultrabooks	12
Chapter 2: Computer Operating Systems	15
Microsoft Windows XP Operating System	15
Microsoft Windows Vista Operating System	15
Microsoft Windows 7	16
Microsoft Windows 8	18
Mac OS X Version 10.5 (Leopard) Operating System	19
Mac OS X Version 10.6 (Snow Leopard) Operating System	19
Mac OS X Version 10.7 (Lion) Operating System	20
Mac OS X Version 10.8 (Mountain Lion) Operating System	20
Mac OS X Version 10.9 (Mavericks) Operating System	21
Chapter 3: Monitors	23

Chapter 4: Computer Peripherals	25
Mouse	25
Keyboards	26
Wireless Keyboard Desktops	27
External Storage Devices	28
External Hard Drives	29
Flash Drives	30
Speakers and Headphones	32
Chapter 5: Printers	35
Stand-Alone Printers	35
Networked Printers	37
Low-Volume Network Printers	37
High-Volume Network Printers	38
Color Network Printers	39
Multifunctional Printers/Copiers	40
Chapter 6: Scanners	43
Low-Volume Scanner	44
High-Volume Scanner	45
Chapter 7: Servers	47
Solo—File and Printer Sharing	47
Small Firm—File and Printer Sharing/Hosting Services	49
Small Firm—Database/Applications Server	51
Virtual Servers	52
Peer-to-Peer	56
Chapter 8: Server Operating Systems	59
Microsoft Windows Server 2003 Standard Edition	59
Microsoft Windows Small Business Server 2003 Standard and Premium Editions	60
Microsoft Windows Server 2003 Enterprise Edition	60
Microsoft Windows Server 2008 R2	61
Microsoft Windows Small Business Server 2008 Standard and Premium Editions	62
Windows Server 2008 Standard Edition	63
Windows Server 2008 Enterprise Edition	64
Microsoft Small Business Server 2011 Standard and Essentials	64
Microsoft Windows Server 2012	64
Microsoft Server 2012 R2	65

X64 Operating Systems	66
Mac OS X Server (Leopard)	66
Mac OS X Server (Snow Leopard)	67
Mac OS X Server (Lion)	67
Mac OS X Server (Mountain Lion)	67
Mac OS X Server (Mavericks)	68
Linux-Based Operating Systems	68
Chapter 9: Networking Hardware	71
Switches	71
Entry-Level and Intermediate-Level Routers	73
Firewalls/IDS/IPS Devices	74
Racks	76
Cabling	78
Wireless Networking Devices	79
Chapter 10: Miscellaneous Hardware	83
Fire Safe	83
Battery Backup Devices	84
Fax Machines	86
Backup Solutions	87
Chapter 11: Smartphones	89
Chapter 12: Productivity Software	97
Microsoft Office	97
Corel Suite	99
OpenOffice.org	100
Adobe Acrobat	102
OCR Software	104
Voice Recognition Software	106
Chapter 13: Security Software	109
Stand-Alone	109
Enterprise Versions	110
Integrated Security Solutions	111
Antispam Protection	113
Chapter 14: Case Management	115
Amicus Attorney	117
Time Matters	118

PracticeMaster	119
Clio	121
Rocket Matter	122
Firm Manager	123
MyCase	124
Others	125
Chapter 15: Time and Billing Software	127
Manual Generation	128
Accounting Software—QuickBooks	128
Billing Specific—Timeslips	130
Billing for a Mac	132
Bill4Time	132
EasyTime	133
Billings Pro	133
Integrated Packages	134
PCLaw	134
Tabs3	135
Amicus Accounting	136
Chapter 16: Litigation Programs	139
Chapter 17: Document Management	141
DocuShare	142
WorkSite	142
Worldox	142
Acrobat	144
Web-Based	144
NetDocuments	145
Plain Folders	145
Searching	146
Chapter 18: Document Assembly	147
HotDocs	147
AIA Contract Documents	148
ProLaw	149
Final Words	150
Chapter 19: Cloud Computing	151
Hybrid Solution	154

Chapter 20: Collaboration	157
Google Drive	158
Acrobat	160
Microsoft Word	161
SharePoint	162
Office 365	163
Skype	164
Dropbox	164
Desktop Sharing	165
Chapter 21: Remote Access	167
Virtual Private Networking	167
GoToMyPC	168
LogMeIn	169
TeamViewer	169
Mobility Tips	170
Chapter 22: Mobile Security	173
Software	173
Encryption	174
Wireless	174
AirCard	176
Public Computer Usage	177
Smartphones	177
Final Words	179
Chapter 23: More from Apple	181
Hardware	182
Apple iPad	182
Touchfire Keyboard	185
AirPort Extreme	185
AirPort Express	186
AirPort Time Capsule	186
Apple Thunderbolt Display	187
Apple Wireless Keyboard	187
Apple Magic Mouse	187
Apple iPod	188
Software	189
Microsoft Office 2011 for Mac Home & Business	189
Toast 11 Titanium by Roxio	189

Norton Internet Security for Mac	190
Intuit Quicken Essentials and QuickBooks 2012 for Macs	191
PGP Whole Disk Encryption 10 for Mac OS X	192
Apple iTunes	192
Chapter 24: Unified Messaging and Telecommunications	195
Unified Messaging	195
Google Voice	198
Voice over Internet Protocol (VoIP)	199
High-Speed Internet	201
Chapter 25: Utilities	203
X1	203
dtSearch	204
Credenza	206
Outlook Send Assistant	206
GreenPrint	207
Winscribe for the Legal Profession	208
Eyejot	208
Hightail (formerly YouSendIt)	209
Copy2Contact	210
TwInbox	210
TweetDeck	211
TinyURL	211
IrfanView	212
DBAN	212
SimplyFile	213
Shred 2	213
SnagIt	214
FavBackup 2.1.3	215
QuickView Plus	215
Sam Spade	216
Metadata Assistant	216
Litera Metadact and Metadact-e	217
Livescribe Echo Smartpen	218
YouMail	219
SmartDraw Business	219
CaseSoft TimeMap 5	220
Evernote	221
WinRAR/7-ZIP	221
Chrometa	222

eWallet	222
LastPass	223
WordRake	223
Chapter 26: Social Media for Law Firms—An Overview by Jennifer Ellis, Esq.	225
Specific Sites and Applications	226
Marketing and Networking	226
Advertising	227
Networking	227
Content	227
Specific Sites	227
Facebook	227
Twitter	235
LinkedIn	238
Google+	240
Pinterest	241
YouTube	242
Foursquare	244
Instagram	245
Blogs	245
Discovery of Social Media	246
Privacy Settings Are Important	247
The Client’s Social Media	247
Opposing Party and Witnesses	248
Trouble for Failure to Preserve	249
Ethical Pitfalls in Research and Discovery	250
How to Obtain Access	252
Ethical Issues—Advertising and Communication	258
Attorney/Client Relationship, Conflicts of Interest, and Unauthorized Practice of Law	260
Conclusion	265
Chapter 27: The Paper LESS Office: Cutting Edge Still, or is it, The Magic “Edge” for Small Firms? by Ross L. Kodner, Esq.	267
The Edge	268
I Want It NOW! Or Sooner! Life in the Age of Instancy	270
Paper—Endless Frustration and Expense	271
Saving the Planet, Saving Your Sanity—More Paper Is NOT the Way	272
The Cost of Being in a Paper MORE Office	273

Fragmented Client Files Defy Common Sense	275
Stop the Madness: Become Paper LESS in Your Practice	275
Getting Specific about Being Paper LESS	277
Scanning Systems—What Works?	278
Document Management Systems:	
The Electronic Glue Holding It Together	281
Okay, Now Let's Get to Our Documents from Anywhere, Any Time:	
The Paper LESS Cloud	285
The Real World: Comments from the Trenches in the Paper Wars	290
SIDENOTE: A Paper LESS Peripheral Benefit:	
Protecting Your "Paper"	293
The Paper LESS Bottom Line . . .	294
Chapter 28: Tomorrow in Legal Tech	295
Final Thoughts	303
Appendix: iWin: iPad for Litigators	
by Tom Mighell, Esq. and Paul Unger, Esq.	305
Glossary	345
Index	367

Introduction to 2014 Small Firm Technology Guide

by James A. Callnway, Esq.

“Any sufficiently advanced technology is indistinguishable from magic.”

—Arthur C. Clarke, well-known science fiction author

You have to be of a certain age to recall when most lawyers thought computers were only word-processing tools for staff and when all telephones were attached to walls by cords. Now almost every type of professional office has computers at every workspace. Many of the technology tools we have today seem like magic, and the number of things one can do from a smartphone continues to amaze us all.

Solo practitioners and small law firms have great opportunities created by technology in that they can communicate and collaborate easily worldwide and can use today’s powerful tools to do things that a few decades back could have been done only by a large firm with legions of associates. But rapid changes in technology also impact the entire legal profession in ways that are not at all positive.

The small law firm often cannot hire a human relations coordinator or full-time IT (information technology) staff. By necessity, the small firm lawyer cannot just practice law but also must handle several administrative duties. It has been said many times that the small firm lawyer wears many hats.

I recall once talking on the phone to a senior lawyer and hearing a happy baby gurgling in the background. He explained that his legal assistant's babysitter was sick and he had a brief due that day. "I may not be able to format that brief correctly, and I cannot type fast," he said. "But I know how to take care of a baby."

The 2014 Solo and Small Firm Legal Technology Guide may not replace a law firm having a full-time IT director, but annually it provides the bedrock information for a small firm lawyer who *is* the firm IT director, like it or not. Some of the book will be read and reread, while other portions will be skimmed or skipped depending on the immediate technology needs of the firm. But a law firm of any size today can no more avoid technology than a trial lawyer can avoid the courthouse.

I was honored to be asked to write this Introduction, particularly because the introductions to prior editions of this book had been written by my friend Ross Kodner. There was shock and sadness around the country when Ross suddenly passed away last summer. Ross was a champion of the smart use of technology in the law office. He spoke at so many legal technology conferences, CLE programs, and bar solo and small firm conferences that the total number of lawyers who have heard Ross speak about legal technology or have read his writings must be staggering. Sharon Nelson, John Simek, and I were all first recruited to speak at ABA TECHSHOW by Ross Kodner. He always loved to show small firm lawyers how technology "smarts" could improve their practices and their lives. Thanks for everything, Ross.

This is the second edition of the *Guide* released since the ABA revised its Model Rules of Professional Conduct to require that a lawyer be competent with the technology tools that lawyers must use today.

The official comment to Rule 1.1 on Competence added the language below (*italics mine*):

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

No doubt this will be threatening to some of our fellow lawyers, and some jurisdictions may not include this provision in their version of the Rules of Professional Conduct. But to many, this aspect of competency has been obvious for some time now. Mastery of technology is clearly an important

business skill for survival, and too many law firms are allowing the press of day-to-day business to delay training and planning for the future.

This guidebook is here to provide the basics of what a lawyer really needs to know about networking, encryption, or social media. But it also provides some deep expertise. It is the law office technology book for lawyers who love technology—and for those who hate it! It is a quick reference guide you can count on when someone tells you that you simply have to drop everything to purchase some gadget or software unfamiliar to you. If you need more information, you can find a huge amount of information on any topic online. But some of that online information will conflict, and some will be promotional material. A baseline understanding from a trusted source is the foundation of good research on technology tools.

Some time-challenged lawyers will simply use the examples in the book as their shopping list. But the main goal should be to learn what features of a product are useful for your situation so you will know when that 25 percent discount or a new release actually *is* a great deal.

But competency in serving clients is only one aspect of why lawyers should have a general understanding of today's technology.

Technology is harnessed today to increase efficiency in small businesses, and even though lawyers still prefer the term *profession* over the term *business*, a small law firm is a small business. We've seen whole classes of businesses become roadkill on the great information superhighway. Because of changes fueled by technology advances, there are far fewer travel agents, music stores, bookstores, and newspapers. It can be hard to conceive that the virtually ubiquitous access to free, instant photographs caused Kodak to declare bankruptcy at the beginning of 2012.

As I write, Kodak has emerged from bankruptcy with a new focus on digital imaging for businesses—we must all reinvent ourselves.

No serious observer can dismiss the well-documented impending challenges to the legal profession, including the online delivery of legal services by non-lawyers. These services directly compete with the small law firm providing general legal advice and services to individuals and small businesses.

The lawyer wearing a CEO hat should recognize that some changes are inevitable. With most types of businesses, the need for improvements to increase efficiency is simply a part of doing business today—not that technology tools trump the traditional and critical skills that successful lawyers have.

Knowledge of the law and local practices, a commitment to good client service, dependability, loyalty, thoroughness, and plain hard work are all required of the successful lawyer.

But proper adoption of technology can improve the lawyer's life *and* the work product for clients.

Let's examine how one basic operation should be accomplished.

A lawyer drafting a document for a client recognizes a specific client situation that requires adding several paragraphs into the primary document and creating a new separate document. Traditionally the lawyer could search prior work for the precedent language or draft the provisions from scratch. Even when using a simple form where no customization is needed, there would be names and dates to add and other items to proof-read. Then the new document would be created (hopefully from a saved form), and the information related to this client would be manually filled in by a lawyer or legal assistant. Certainly this would take billable time charged to the client.

But the aspirational goal, which is completely attainable with today's tools, would be for the drafting lawyer to recognize the situation and click on a button or item from a list to insert the needed provisions. No customization would be required, as the inserted language would either match defined terms within the document or automatically fill with required information (a/k/a data) for this client and/or transaction. The new document would also be created quickly and filled with the required data. The lawyer would then consult the firm's checklist or workflow outline to determine if additional tasks needed to be done as a consequence of these changes.

What would have taken the better part of an hour for drafting and proofing would now be done in minutes. But of equal importance is the fact that the firm has a standardized process so every client of the firm with this situation receives these additions to his or her documents. These provisions were vetted by the firm experts and reflect the state of the art (and the state of the law) as far as the firm is concerned.

Time that would have been billed to the client is saved, which results in both a better value for the client and a potential loss of revenue to the firm. This is why a discussion of law office automation should go hand in hand with a discussion of billing at least some tasks differently than by the hour. But the benefits of automation are greater: The lawyer and legal assistant avoided a part of their work that is tedious—replacing names,

dates, and other data when using prior work and proofreading the same document multiple times. One goal of this process is to free the legal professionals for more creative, challenging, and valuable work. Other benefits could include quicker turnaround for client projects and fewer nights spent burning the midnight oil at the law firm.

The scary thing is how soon the above project will be handled by the lawyer saying to the computer, “Take the Jones AX50 data and create documents 43, 47, and 47B. Print the draft to my screen.” Only law firms that have successfully incorporated the current improvements in process will be ready to take that next step.

All of these technology tools are just that—tools. So the smart small firm lawyer today will need to combine these tools with processes. Whether these combinations are called workflows or legal project management or some new term of techno-jargon (or management-speak) really matters not. Law firms that invest in these processes will obtain advantages over those firms that do so more slowly and incompletely—or not at all.

Some of the advantages in the service delivery to clients will include:

- ◆ using secure, encrypted client portals for delivery of information instead of completely insecure e-mail and attachments
- ◆ never asking clients for information they have previously provided because it has been misplaced or cannot be quickly located
- ◆ using digital client files that can be accessed by several lawyers or staff simultaneously and that can never be “lost” (if the firm does its data backups correctly)
- ◆ having the ability to answer routine questions from the client instantly (e.g., “What is my total bill right now?”)

There are many resources and systems available on time management and efficiency. You may have adopted the late Stephen Covey’s *Seven Habits of Highly Effective People*, David Allen’s *Getting Things Done*®, or Merlin Mann’s *43 Folders*. I often direct lawyers to the easy-to-read book *The Checklist Manifesto* by Atul Gawde.

The 2014 Solo and Small Firm Legal Technology Guide can help you purchase new tools to replace those that have become outdated or broken. But the highest and best use of the *Guide* is to use it with some of the tools profiled in it and other information to build improved processes and systems in your law office, setting your firm on a path to success and creating your own future.

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