

## **Chapter 5**

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**FILE MANAGEMENT**

# Chapter 5

## File Management

If no conflicts preclude your representation and you have accepted the matter, it is time to open a new file and devise a system for managing the documents for your client's matter.

File management is the creation of a system which results in the filing of every document of every client matter. Good file management helps to discharge your obligation of competent representation, to safeguard client confidences and with the easy retrieval of needed documents. It is important to note that proper file management continues through the life of the representation and for a time thereafter. After a matter concludes, the file should be stored, and eventually destroyed and/or electronically copied to make room for new files. To determine when and what types of files can be destroyed and how long files need to be stored, refer to the Termination of Representation Section.

Effective file management depends on: a system of centralized storage for all files; whether that method is electronic, through a "cloud" service or through local storage on your server or computer; by paper; or both. If storing files electronically, provide for regular redundant backup of your files. If using a "cloud" provider for file management, inquire how documents are backed up on the company's end. If storing files through a combination of electronic and paper, be clear which documents are to be stored electronically or by paper, and communicate this to staff. Whichever methods are chosen, basic file organization achieves the same purpose – the easy and efficient retrieval of client documents. Regardless of method, good categorization of the documents contained within a file is key to a good file management system.

For example, a personal injury matter might require the following document subfolders (whether labeled such in a separate manila folder in a larger expandable folder sleeve for the entire client matter, or in your server directory):

- File Opening Form (see below)
- Intake Notes
- Pleadings (in chronological date order)
- Discovery (Propounded; Responses) (in chronological date order)
- Client Correspondence (Letters, Emails) (in chronological date order)
- Research and Your Notes
- Client-Provided Documents
- File Closing Form (see below)

A transactional file might require different subfolder titles. The point is to create a filing system whereby you can retrieve documents quickly and efficiently.

Organize documents that you have on computers using the same categories that you would use if the file was a paper file. Create and adhere to a standard document naming and storage convention for your electronic file. Each file should have its own electronic file name with subfolders for the particular document categories. If you have many client matters that need organizing electronically, do one file at a time and chip away at the files, starting with the ones which are the most active.

You might consider a file naming convention that incorporates a date. For instance, instead of "Client Letter 1" and "Client Letter 2" to identify documents in your Correspondence subfolder, use "Client Letter 8-15-2016."

If scanning documents, make sure that the scanned document finds its way to the correct subfolder for the client matter.

Good, secure, electronic file management services in the cloud will cause you to organize your files efficiently. Adapt them to meet your file needs.

Please note that Rule 1.6(c) provides that a lawyer must make reasonable efforts to prevent inadvertent or authorized release of client information. The following checklists will assist lawyers in managing their files.

# General File Management Checklist

- Create a *File Opening Checklist* for basic file information. Best practices would include a paper copy and the creation of an electronic, appropriately named copy. This document should be very easily retrieved.
- Maintain a master list of all files. Best practices would include a paper copy and the creation of an electronic, appropriately named master copy.
- If storing files by paper, use a sturdy OUT CARD when removing a file. The OUT CARD should indicate who removed the file, when it was removed, and which file was removed.
- Create a policy for identifying physical objects or other documents that cannot be stored with the original file, whether electronically or by paper. This policy will help you locate these necessary objects and documents when needed during the matter, or at the close of the matter when it is time to return them to the client.
- Return any original documents to the client when the matter has ended.
- If requested, return the file to the client, whether or not the client still owes fees and expenses. Store the file in a safe place (electronic storage with redundant backup will suffice, except for those documents which must be stored in their original forms (e.g., last wills, promissory notes, etc.) Never hold a client's file hostage for fees, and you should always keep a copy of the file.
- Create a *File Closing Checklist*, and when the matter concludes, place it with each file. Best practices would include a paper copy and the creation of an electronic, appropriately named copy, however, if you are "paperless," best practices would include redundant electronic digital backups.
- Maintain a master list of destroyed files, including name, file number, date opened, date closed, date destroyed, and whether it was duplicated using another medium.

# Checklist for Opening Files

Your File Opening Checklist should be readily accessible so you can quickly retrieve basic file information. It should contain the following:

Client Contact Info:

- Client name and spouse's name
- Business and home addresses
- Business, home and cell phone numbers
- Work and personal email addresses

Client Number and Client Matter Number: Consider a file numbering convention. For example, the matter *Allen Johnson v. ABC Trucking, Inc.* might have the following file number: 12-045, indicating Mr. Johnson's client number is 12, and indicating that this is the 45th matter that you have handled for him.

How was the matter obtained? Indicate who referred the matter to you.

Date file opened:

Attorney assigned to the matter:

Is the file for a new client, a new matter for a current client, or a new matter for a former client?

Are there any partners, affiliates, subsidiaries, parent corporation or other related persons or entities?

Was file placed on the Master File List/Client List and the Bookkeeping/Accounting List?

Was written resolution of the Conflicts Search Results Memo placed in the file?

Did the client sign an informed consent or waiver, if conflict found?

What is the basis for the fee and the method for paying the fees and expenses?

Was an Advance Deposit collected?

Was the Deposit made into the Client Trust Account?

Was an Engagement Letter or other written fee agreement sent to the client?

Did the client sign or acknowledge the engagement letter?

Were all critical dates, including prescription periods and closing dates, marked on the appropriate calendars?

Who are the attorneys for the other parties, and/or the judge and arbitrator or mediator? (Obtain necessary information to communicate with each.)

Were all necessary Client Authorizations and Consents obtained (including medical, financial, educational, etc.)?

Is an expert or consultant needed for the matter?

If so, name them and all necessary information to contact them.

Has a copy of the fee agreement been given to the client at the time of execution?

Has a copy of Rule 1.8(e) been given to the client in every instance where the client has been provided financial assistance?



# Client File Surrender Letter

## SAMPLE "FILE SURRENDER" LETTER

Dear Client:

I/We have received your request for a copy of your file (Our File #(s): \_\_\_\_\_) dated \_\_\_\_\_. As per your request, please find your entire file, including any and all original documents related to your case/matter that we have not previously returned to you. In accordance with our firm's document retention policy (as detailed and provided to you originally within our written Attorney-Client Agreement), we will continue to retain our own internal copy of your legal file(s) for \_\_\_ years from this date. At the expiration of that \_\_\_\_\_-year retention period, we will permanently destroy our own internal copy of your file(s) unless you choose to notify us in writing before the end of that \_\_\_\_\_-year retention period that you also wish to take possession of that copy, as well. We reserve the right to charge administrative fees and costs associated with researching, retrieving, copying and delivering such files.

Kindly please sign, date (as indicated below) and return to us the enclosed duplicate copy of this letter (using the enclosed pre-addressed, postage-paid envelope). By doing so, you are acknowledging our delivery and your receipt of the file(s) in question. If there are any questions or concerns about this, please do not hesitate to contact us.

In the event that you need legal representation in the future, I hope that you will consider engaging our law firm again. We thank you for allowing us to represent you in this matter.

Sincerely,  
[Lawyer's Name]  
[Law Firm's Name]  
Enclosures

## CLIENT ACKNOWLEDGEMENT OF RECEIPT OF CLIENT FILE(S)

I \_\_\_\_\_ (Client's Name) have reviewed the contents of my file and acknowledge receipt of my entire file from Smith and Associates on

\_\_\_\_\_ (date).

## Additional File Management Resources

- **Document Management Software: The Electronic File Butler for the Law Office** by Steven J. Best, Esq., *Law Practice Today*, American Bar Association Law Practice Division Monthly Webzine (January 2011).
- **\*Flying Solo: A Survival Guide for the Solo and Small Firm Lawyer** (5th Ed. 2014), by K. William Gibson, Ed.
- **How to Organize Paperless Client Files** by Sam Glover, *The Lawyerist* (Nov. 13, 2013).
- **\*Legal Project Management in One Hour for Lawyers** (2013) by Pamela H. Woldow and Douglas B. Richardson.
- **\*Paperless In One Hour for Lawyers** (2014), Sheila M. Blackford and Donna S. M. Neff
- **Paralegal Basics – How to Organize a File** by Ana Pierro, *The Paralegal: Blogging about the Business of Being a Paralegal* (June 11, 2014).
- **The Basics of Client Files: File Organization** by Todd Scott, *Legal Law & Trends*, Practice Area Newsletter, ABA GP Solo and Small Firm Division.
- **\*The Lawyer's Guide to Records Management and Retention** (2d Ed. 2014), by George C. Cunningham

\*Members may borrow these titles and others, at no cost, from the LSBA's Lending Library.