

# **Take the Work Out of Your Workflow - An Estate Planning Case Study**

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I. **HOW TO FIX PROCESSES AND CREATE EFFICIENCY IN AN ESTATE PLANNING PRACTICE – A CASE STUDY:**

A. **Process Mapping Defined:** Here's one of the best definitions I've found of process mapping:

Structural analysis of a process flow (such as an order-to-delivery cycle), by distinguishing how work is actually done from how it should be done, and what functions a system should perform from how the system is built to perform those functions. In this technique, main activities, information flows, interconnections, and measures are depicted as a collage on a large sheet of (commonly brown) paper, with different colored 'Post-it' notes or slips of paper. This graphic representation allows an observer to 'walk-through' the whole process and see it in its entirety. Also called brown papering.<sup>1</sup>

B. **Why You Should Map Your Processes:**

1. **Because "That's the way we've always done it" Isn't a Justification For Anything:** This is the most common justification for policies, procedures and protocols that are irrational, inefficient, or violate common sense.
2. **Because Checklists Are Key:** Just read the best-selling book called The Checklist Manifesto: How To Get Things Right by Atul Gawande<sup>2</sup> (\$12.30 on [www.amazon.com](http://www.amazon.com)). The book illustrates the critical importance of checklists in many professional fields but doesn't spend much time talking about the legal applications. However, you'll immediately see its application to the legal world and to the practice of law. There is high value in compiling checklists (which are essentially process maps) for all significant practice areas you're involved with. Checklists and written protocols are important for business continuity and as part of your business succession plan. They also allow you reduce errors, ramp up new employees more quickly, and to delegate tasks to support staff that you may have otherwise had reservations about delegating.

Ideally, checklists should be used for every process. By "used," I mean that the items on the checklist are actually checked off (on paper or electronically) as they are completed; and someone actually verifies or certifies that all steps were followed at the end of the process. This could

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<sup>1</sup> See <http://www.businessdictionary.com/definition/process-mapping.html>

<sup>2</sup> Atul Gawande is a surgeon, writer, and public health researcher. He practices general and endocrine surgery at Brigham and Women's Hospital in Boston, and is Director of Ariadne Labs, a joint center for health systems innovation. He is Professor in the Department of Health Policy and Management at the Harvard School of Public Health and Professor of Surgery at Harvard Medical School.

be a simple paper checklist which someone follows and it is then signed and dated at the end. At that point, it could be scanned into the file if you're trying to reduce paper.

- C. How To Document Your Processes:** The steps involved in any particular legal process cannot (safely) only reside in someone's head. This doesn't have to be terribly complicated. The idea is to write down the steps involved in the main work-flows which occur in your office. You want to note what tools are used in each step (software or hardware or whether steps are completed manually), who performs it, and very importantly, how long each step typically takes. You also want to know how often the process occurs each month.

1. **How To Build The Flow:** For each step of a process, you want to record:
  - a. **Description of the Step:** For example, "Have Initial Meeting with Client" might be a description.
  - b. **Who Does It?** What individual or individuals handles this step?
  - c. **How Long Does It Usually Take?** Write down a range of time.
  - d. **Any Decisions Made At This Step?** If decisions need to be made, what are they? Are there any factors one should consider when making the decision?
  - e. **What Tools Are Used?** This may include a software program, a Dictaphone, a tablet or anything like that.
2. **What You Can Use to Document:** Most people do this in the word processor by simply numbering and describing the steps involved in any particular process. If you want to graphically represent the process, then you could use programs like LucidChart<sup>3</sup>, SmartDraw<sup>4</sup> or Microsoft Visio<sup>5</sup>.
3. **Example - Open a Probate Estate:** Let's say a firm opens new estates approximately 3 times per week. Here are the steps:
  - a. **Client Contacts Us:** We normally receive a call from a loved one of the decedent and it is typically a spouse or child who will be appointed the fiduciary of the estate. The initial calls can last anywhere from 15 to 60 minutes depending upon how many questions they have. We schedule an initial meeting during this call

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<sup>3</sup> See <https://www.lucidchart.com/pages/>

<sup>4</sup> See [www.smartdraw.com](http://www.smartdraw.com)

<sup>5</sup> See <http://office.microsoft.com/en-us/visio/>

normally for 2 weeks out. The call is always handled by one of the attorneys (Robert, Sarah or Paul).

- b. **Creation of Paper and Electronic File:** Amy fills out a new file form and submits it to accounting (Michelle) electronically so that the matter will be created in the accounting system. Once Michelle emails Amy the client and matter ID, Amy creates the paper file (red rope with sub folders), labels the file with decedent name, client & matter ID. This entire process normally takes 45 minutes to complete.
- c. **Initial Client Communication:** Print initial fiduciary questionnaire, cover letter and list of items to bring to the initial meeting and mail to fiduciary. Process completed by Amy and normally takes 20 minutes.
- d. **Prepare Engagement Agreement:** This is handled by Amy with instruction from the attorney in advance of the initial meeting and the printed engagement agreement is added to the file. This usually takes 20 minutes.
- e. **Initial Meeting with Fiduciary:** These usually last one hour and one of the attorneys handles it. The attorney goes over the information provided by the Fiduciary, creates a list of any additional items needed and has the fiduciary sign the engagement agreement. Amy makes a copy of the agreement for the client and we keep the original.
- f. **Probate Forms Completed:** Amy completes the following forms using the fillable PDF forms available from the Probate Court. This is slightly inefficient because the same information has to be re-entered in each form; and some of the forms don't have enough space to type everything so must be printed and finished in a typewriter.
  - i. Form 1.0 - Surviving Spouse/Next of Kin
  - ii. Form 2.0 - Application to Probate Will
  - iii. Form 2.1 - Waiver of Notice of Probate of Will (if required)
  - iv. Form 2.2 - Notice of Probate of Will (if required)
  - v. Form 2.4 - Certificate of Service of Notice of Probate of Will (if required)

- vi. Form 3.0 - Appointment of Appraisers (if required)
- vii. Form 4.0 - Application for Authority to Administer Estate
- viii. Form 4.5 - Entry Appointing Fiduciary - Letters of Authority

The foregoing forms are printed and signed by the attorney where applicable. Amy then drafts a cover letter to the fiduciary, a postage-paid return envelope and mails the forms and letter to the fiduciary to sign and return. This entire process takes about an 2 hours.

- g. **Open The Estate At Probate Court:** Once the forms have come back signed, Amy fills out a check request form for the deposit necessary to open the estate and obtains the check from Michelle. She also makes two copies of each form and puts them in the file. The attorney then takes the entire file to the Probate Court, deposits the initial fee, files all of the original forms, obtains time-stamped copies of the copies, obtains the certified Letters of Authority and returns to the office. This process takes 2 hours on average.
- h. **Return Pleadings to Client:** Amy takes one set of the time-stamped pleadings, drafts a cover letter and sends them to the fiduciary. This process takes 15 minutes on average.

4. **What Could Be Improved About The Foregoing Process?** A lot of little things could be done to improve the foregoing. For example:

- a. A pamphlet could be created which is sent to new clients explaining the probate process. If this could be sent to the client, it would cut down on the time involved in the initial client phone conference and initial client meeting.
- b. The file could be maintained exclusively electronically rather than both paper and electronic.
- c. Many clients may be happy to receive an emailed PDF copy of pleadings and filings. This would save on sending out hard copies and drafting correspondence.
- d. Templates could be created for all of the standard correspondence which would speed it up; and those templates could be linked to Outlook or a case management program which automatically pulls in the client's information so that it doesn't have to be entered again into every letter.



- e. A program could be used to generate the probate pleadings which would be much faster than using the court's PDF forms. Information would only have to be entered once and it would transfer from form to form.
5. **Benefits of Written Processes:** Writing down what is supposed to happen at each step and who is responsible for it creates accountability. It also significantly reduces the possibility that a step will be omitted; and it makes it much easier to train new employees. If you're the one putting the written process together by gather the relevant information, then it's a great way to learn.

**D. Case Study - an Estate Planning Practice:**

1. **The Process:** This is an actual analysis completed by an estate planning practice within a larger firm in Florida. The names have been changed to protect the innocent.
2. **Initial Phone Conference:**
  - a. **Phone Call:** The initial call comes in and Alexis usually handles it. Alexis qualifies the potential client, asks questions about their estate, whether they own a business and the like. During this call, they also try to schedule the initial appointment between the potential new client and Jessica. Finally, they do not give a price quote even if they're asked. If pressed, they might say, "I'll be at least \$\_\_\_\_\_" depending upon the nature of the estate. There is no checklist for the questions Alexis's asks. The call typically lasts 20 to 30 minutes.
  - b. **Phone Call Summary:** After the initial Q&A, Alexis drafts an email to Jessica & Danielle summarizing the conversation. 5 - 10 minutes
  - c. **Conflict Check and Conference Room Reservation:** Upon receipt of the email, Danielle will do a conflict check (3 minutes to complete but getting it back can take 10 mins or 24 hours); the conference room is booked for the initial meeting with Jessica.
3. **Introductory Documents Sent To Client:** Cassidy prepares a letter to the client enclosing the questionnaire and confirming the appt. The letter goes to Jessica for her review and signature. This usually takes Cassidy 20 - 30 minutes. Jessica's review is usually 5 minutes. The letter usually goes out via USPS, but is sometimes emailed as a PDF.

4. **Engagement Documents:** Cassidy also completes a draft of engagement letter and joint representation agreement (if married). These documents go to Jessica for review and once approved, they're printed and added to the paper file. Cassidy spends 15 - 20 minutes and Jessica reviews in 5.
5. **Temporary File:** Cassidy or Danielle next set up temporary file (orange folder) which contains the agreements, printed email outlining client information, and the conflict check information. This is the working file until the potential client becomes an actual client. Sometimes, files get stalled for a variety of reasons. There's no formal follow up procedure but Alexis periodically looks at all of the orange folders to decide what should be done about the ones that have been sitting for a while. 10 minutes.
6. **Questionnaire Returned:** The client's questionnaire arrives either in advance or they bring it to the initial appointment. Whenever it shows up, Danielle scans it into the document management system and puts the original in the temporary folder. 5 minutes.
7. **Public Records Search:** Next, Danielle searches public records to pull copies of deeds for real estate shown on the questionnaire because the clients never seem to have their deeds. This takes 10 - 30 minutes.
8. **Initial Client Meeting:**
  - a. **Meeting Prep:** The day before the initial meeting, Danielle delivers the temporary folder to Jessica for review (including deeds). Jessica reviews the questionnaire before the conference (this usually takes 5 to 10 minutes).
  - b. **Meeting Occurs:** Jessica meets with the client (no charge for this consultation). She takes her iPad into the meeting (to take notes on) along with the temporary file. After the meeting, Jessica emails herself the iPad notes so they can be printed and put into the file. This takes anywhere from 60 to 120 minutes.
  - c. **Fee Quote:** By the end of the initial client meeting, Jessica quotes a fee. If the client says yes, then the agreements are signed and she gets half of the quote as a deposit.
9. **Create The File:**
  - a. **New Client Intake:** After the meeting, Danielle receives the temporary file and deposit information. She has to complete a client intake form (4 pages of questions and this can't be completed until the conflict check comes back which takes roughly 60 minutes

per client). The intake form is emailed to the group leader and the main office in Miami. After approved, Miami assigns a client matter number, then someone else creates the file in the document management system.

- b. **Payment Processing:** Danielle also has to fill out another form for the deposit (either credit card or check) which goes to Miami via inter-office mail. Once Danielle gets an email confirmation that the deposit has processed, she gives the temporary file to Cassidy who will set up the final physical file. 5 minutes.
- c. **Set Up Physical File:** Cassidy scans the documents received, engagement letters that were signed and other correspondence. She enters the new file information into another system called ARM which produces bar-coded labels for main file and sub-folders. Subfolders include correspondence, notes & memos, fee matters, will, trust, advance directives, assets, real estate information, business information, etc. There's a big label on the front of the file that is a merge document which has client contact information and a table of contents of the sub folders in the file. This whole process takes at least an hour and can take as long as 1.5 hours.

10. **Drafting Process:**

- a. **Ancillary Document Prep:** Alexis prepares the merge data base (old drafting system previously used to generate all of the documents). After the data is entered, she prepares the advance directives, escrow letter, and follow up letter. If it is a new client, she then enters the client data into the WealthDocx drafting system so Jessica can use it to prepare the wills and trusts. If it's an existing client, then she'll prepare wills, codicils, trusts and amendments in the old mail-merge system herself. After all of the ancillary documents are drafted, they're printed, put into a red folder and the entire file is given to Jessica for review. This takes 60 to 120 minutes.
- b. **Deed Prep:** If deeds are needed, Alexis prepares a deed request to the paralegal for real estate. This takes Alexis 10 minutes. However, the actual preparation of the deeds takes the paralegal 30 to 60 minutes depending upon the complexity and number.
- c. **Doc Review and Will/Trust Prep:** Assuming it is a new client, Jessica will prepare the wills and trusts in WealthDocx. If it's an existing client, she'll review the wills and trusts Alexis prepared.

Regardless, she also reviews the advance directives and other documents Alexis drafted. Jessica then delivers the file back to Alexis but an email goes out at the same time giving her instructions about what she needs to do.

**Note #1:** There could be additional back and forth transfer of the file if more than one review is required depending on the situation.

**Note #2:** Due to the fact that Jessica doesn't like the way the documents come out of WealthDocx, the drafting process is rather convoluted. First, Jessica runs a set of documents for the husband. Once the documents are open in Word, she edits them in Word. Then to make sure that the same changes made to the husband's documents are also made to the wife's documents, she runs a set of documents for the wife and then creates a redline between the edited husband's documents and the wife's unedited documents. She then uses that redline as a guide to ensure that all of the same changes are made to the wife's documents. While that process alone is slow and painful, it's made much worse by the fact that (for whatever reason), Word's compare documents function on Jessica's computer is not integrated with the document management system. As a result, she has to follow the series of steps shown on **Exhibit A** (which I think has to be seen to be appreciated).

The review of existing documents, drafting of wills/trusts and the email to Alexis with instructions takes 2 to 3 hours.

- d. **Final Edits:** Alexis makes final changes and prints the advance directives on bond paper so they're ready to sign. She also reformats WealthDocx documents because they are not formatted the way Jessica likes. She checks for pagination issues, checks to see if any cross references went bad (error codes), and changes the footer because Jessica likes the pages numbered differently. If there are co-trustees, Alexis creates a separate acknowledgment for each trustee which is a manual modification. This also causes changes to the last paragraph before the signatures. This process takes 1 to 2 hours and always at least 1 hour.

11. **Signing Conference:**

- a. **Scheduling:** Once the documents are ready to sign, Alexis schedules the signing appointment with the client and schedules the conference room. Alexis indicated that they would not mind scheduling a signing conference at the time the client comes in for

the initial conference, but feels it's pointless because the documents would never be ready in time. 5 minutes.

- b. **Conference Room:** On the day of the appointment, Danielle prepares conference room in advance for signing. 5 - 10 minutes.
- c. **Signing:** Jessica attends the signing conference. If edits are required, Alexis makes them and reprints. This usually takes 1.5 hours. Alexis and Danielle witness and notarize the documents so they have to be present for at least some of the signing conference. So figure 1.5 - 2 hours each for Jessica; and usually 15 minutes each for Alexis and Danielle.
- d. **Copies Made:** After everything is executed, Danielle takes the documents, makes copies, adds covers, and delivers the package to the clients while they wait (takes 20 - 25 minutes).

12. **Post Execution:**

- a. **Holding File:** Cassidy or Danielle place placed the documents in a filing cabinet until they can be logged into the vault system (see next step for details on the vault system). 5 minutes.
- b. **Follow Up and Billing Letter:** Alexis prepares a follow up letter to the client which will enclose the bill. She also requests a prebill from the Miami. 15 minutes.
- c. **Review Follow Up Letter and Billing:** At this point, Jessica reviews the follow up letter to the client which Alexis previously drafted, reviews the prebill and requests a final bill. Once the letter is finalized and the bill received, Jessica signs and it goes out via USPS. This process usually takes 30 minutes.
- d. **File Organization:** Alexis organizes the file and clips in all loose items; tabs all documents per procedure; and places an "O" sticker on file indicating that original documents are in the law firm's possession. 10 minutes.

- 13. **Original Documents Entered Into Vault:** Jessica stores original sets of documents for most clients and there is no charge for this service. When estate planning documents are signed, they go into a holding file downstairs. When the responsible person has time to put some documents into the vault, she goes downstairs to get

the original documents. All of the documents are then copied for the paper file and scanned for the electronic one.

At this point, a cover sheet for the envelope which will hold the documents must be created. A 217 page Word file containing an enormous table is opened and the client information is entered into the last row of the table (even though this information is already in the WealthDocx document assembly system). This data is then merged into a cover sheet form for the envelope. A cover sheet looks like this:

\*\*\*\*\*

***JOHN R. (deceased) & JILLIAN R. McConnell***  
***File No. 41476/0001***  
***Attorney: JMB***

**IN VAULT:**

**Husband's Documents:**

1. Will of John R. McConnell dated 11/20/00. (*CLIENT DIED - DOCUMENT REMOVED & FILED WITH COURT 10/13/04*)
2. First Codicil to Will of John R. McConnell dated 05/05/04. (*CLIENT DIED - DOCUMENT REMOVED & FILED WITH COURT 10/13/04*)
3. Revocable Trust Agreement for John R. McConnell dated 11/20/00. (MOVED TO TRUST REP VAULT PKG. #41476.0250)
4. First Amendment To The John R. McConnell Revocable Trust Agreement dated 05/05/04. (MOVED TO TRUST REP VAULT PKG. #41476.0250)

**Wife's Documents:**

1. Will of Jillian R. McConnell dated 04-27-15.
2. The Jillian R. McConnell Revocable Trust Agreement dated 9-23-05.
3. First Amendment to and Restate of The Jillian R. McConnell Revocable Trust u/a/d 09-23-05, signed 04-27-15.
4. Assignment re: Hamilton Credit, L.L.C. signed 04-27-15.
5. Two Durable Powers of Attorney for Asset Management for Jillian R. McConnell dated 02-09-15. (DOCS MISPLACED - CMB TO HAVE CLIENT RESIGN ON NEXT VISIT)

**IN CLIENT FILE:**

**Husband's Documents:**



However, they are out of space and many of them are now just kept on a shelf in one of the offices. Further, because they're in alphabetical order, files have to be shuffled around from cabinet to cabinet as new ones are added.

Finally, and worst of all, it takes 60 to 90 minutes per file to go through this process. Currently, there are 36 files waiting to be vaulted.

14. **Summary of Time Spent:** Here's what the time looks like when added up.



<b>Step</b>	<b>Staff Min # of Minutes</b>	<b>Staff Max # of Minutes</b>	<b>Atty Min # of Minutes</b>	<b>Atty Max # of Minutes</b>
Phone call	20	30		
Phone call summary	5	10		
Conflict check	3	3		
Introductory docs	20	30	5	5
Engagement docs	15	20	5	5
Temporary file	10	10		
Questionnaire filed	5	5		
Public records search	10	30		
Meeting prep			5	10
Meeting			60	120
New client intake	60	60		
Payment processing	5	5		
Physical file	60	90		
Ancillary document prep	60	120		
Deed prep	40	70		
Will and trust prep			120	180
Final edits	60	120		
Sign scheduling	5	5		
Sign conf room prep	5	10		
Sign conf signing	30	30	90	120
Sign copies made	20	25		
Holding file	5	5		
Follow up letter	15	15		
Review and bill			30	30
File organization	10	10		
Original documents into vault	60	90		
<b>Total Minutes</b>	<b>523</b>	<b>793</b>	<b>315</b>	<b>470</b>
<b>Total Hours</b>	<b>8.72</b>	<b>13.22</b>	<b>5.25</b>	<b>7.83</b>
<b>Average Hours</b>	<b>10.97</b>		<b>6.54</b>	

**E. Effective Hourly Rate Analysis:** The effective hourly rate is calculated by taking the flat fee charged and dividing by the total hours spent to render the service. In this example, the attorney's hourly rate if she was charging for an hourly service would be \$350/hour and the paralegals charge \$125/hour.

- 1. What the Hourly Fee Would Be:** If the paralegals and lawyer billed hourly for the average number of hours they spend on a file, it would look like this:

Paralegal fee if billed hourly (\$125) .....	\$1,370.83
Attorney fee if billed hourly (\$350).....	\$2,289.58
<b>Total .....</b>	<b>\$3,660.42</b>

2. **What They Charge and the Effective Hourly Rate:** As you can see below, the actual results aren't very good across the range of fees they charge. If the average fee is \$2,000, then the effective hourly rate for everyone is below even the paralegal's rate.

<b>Fee</b>	<b>Effective Hourly Rate</b>
\$800.00 .....	\$45.69
\$1,500.00 .....	\$85.67
\$2,000.00 .....	\$114.23
\$2,500.00 .....	\$142.79
\$3,000.00 .....	\$171.35
\$3,500.00 .....	\$199.90

- F. **Recommendations for Improvement:** Here are the actual recommendations made to the firm for improving this process. Nearly all of them were followed which has significantly improved the profitability and mental health of the lawyer involved.

1. **Every Effort Should Be Made To Speed Up The EP Process:** This isn't a recommendation related to a particular step in the EP workflow, but to every step. Since there are rarely hard deadlines with an estate planning practice, it's common for practitioners to be fairly unconcerned about ensuring that every single matter is moving forward with urgency. There's rarely a malpractice risk if it takes an extra week to get a set of estate planning documents ready for signature. I'm not judging Jessica with that statement; I'm just pointing out facts about the average EP practice. With Jessica's department, there is a serious problem with turn-around time. Further, the distractions and delays mentioned previously combined with a high volume of work is causing Jessica's workflow to break down. For example, Jessica told me:

"We have been unable to keep up for over two years. We consistently have a backlog of drafting assignments. At any time, we tend to have 30 to 50 drafting projects in process."

Jessica indicated that the average turnaround time is 2 to 3 months between initial client meeting and signing conference.

Jessica also mentioned that she hasn't taken any new clients for several months to try and catch up because she's already booked several months ahead. So this situation is critical and not surprisingly, many of my

recommendations below are designed to eliminate wasted time and speed up the workflow.

2. **Progress Tracking:** Paper must be removed from the process where ever possible; and once it is removed, no one will be able to count the number of orange folders on a shelf to determine how many new clients are in process but have not yet had their initial meeting with Jessica (this is how it is done now). Potential new clients and estate plans in progress will need to be tracked electronically. Case management software is designed for this purpose, but if that is off the table, then another method must be used. Almost all of our clients similarly situated use **Excel** for tracking this kind of data. For example, see below as a redacted example from one of our clients. The benefit of using Excel is that you can search through it by any term and sort by any column.

PROJECT LIST ESTATE PLANNING						
		EPIS Sent	Rec'd	Eng-Sent	Rec'd	Close
2316 [REDACTED]	2/22/12 Email From [REDACTED] bank wants resolutions authorizing changes in ownership 2/24/12 e-mailed Partnership Certification and Borrowing Authorization to Katy.mar 2/29/12 received copy of executed Partnership Certification and Borrowing Authorization.	N/A	N/A	2/24/12 e-mail	2/27/12	
[REDACTED]	7/17/10 Initial conference	Yes	7/13/10	7/16/10	7/17/10	
[REDACTED] CSD Erase 2012-06kenn	9/11/03 shareholders' agreement to client Reissue certificates/revise latest minutes \$100 per share issue – need capital contribution PAA REVIEW FILE TO CLOSE			9/11/03	11/10/03	6/11/12
Advanced Care Management [REDACTED]	11/12/13 11/15/13 Hold off on work.	N/A	N/A	10/10/13	10/21/13	
[REDACTED] [B&H seminar] CSD Erase 2013-09-05	8/5/12 Initial conference. 6/28/12 TC Wendy. She will drop off signed engagement letter and other requested info next week. 7/20/12: need to contact again to proceed. 10/4/13 Letter Termination, contact me if want to revisit EP & I will open new file. 10/23/13 Wendy spoke to Carol. They would like to proceed with their estate planning. Will mail engagement letter back this week.	5/22/12	5/30/12	6/8/12	11/19/13	9/6/13
[REDACTED]	1/22/15 Executed DGPOA. Agent will come to office to sign.			1/22/15	1/22/15	1/28/15

3. **Initial Client Questions Must Be Written Down:** Alexis typically handles the initial phone conference with potential estate planning clients. Many questions are asked to qualify the client, find out where they live, whether they own a business, and other details about their estate and situation. A ballpark price range is given if requested. Alexis indicated that there is no checklist for this process and all of the questions are off the top of her head. Qualifying a potential client and gathering preliminary information

is really important and there should definitely be a checklist for this. Not following a script creates a high margin for mistakes (defect waste). Further, if the entire client interview is only in Alexis's head, it's not going to be easy for someone else to learn how to do it in her absence (non-utilized talent waste). Finally, this entire process is non-billable and following a checklist or script will speed it up and make it cost less.

4. **Multiple Recommendations Regarding Introductory Documents:** Cassidy prepares an initial client letter, a questionnaire, engagement letter and joint representation agreement which is sent to the client. At this point in the process, every action is non-billable so it's important that it take as little time as possible without sacrificing accuracy.
  - a. **All Documents Should Be Generated From One System.** All of the ancillary documents are generated using the legacy mail-merge system. Then all of the client information has to be re-entered into WealthDocx for the wills and trusts. This has to stop. Re-entering the same data into multiple systems is pure waste and also increases the likelihood of mistakes.
  - b. **The Default Position Should Be That All Documents Are Emailed As PDFs:** Not just for Jessica's department, but for the firm as a whole, the default position should be that correspondence, forms and agreements should be emailed as PDFs rather than printed and sent via USPS. Emailing PDFs is infinitely faster and less expensive than using the USPS. It's how legal business gets done today. Having said that, I appreciate that with estate planning, there's a higher likelihood that a client will be older and so lacking in tech savviness that they don't know what to do with PDFs emailed to them. However, many are perfectly comfortable with that and as time goes by, an ever increasing percentage of older individuals will be fine with PDFs and probably prefer them.
  - c. **Jessica's Department Needs Electronic Letterhead and Signatures:** When I asked Jessica if they send the initial client letter and forms via email (as PDFs), she told me, "[i]f a client asks for PDFs, we'll send them but it takes more time." There are two big reasons that Jessica's department finds it annoying and slower to email correspondence to clients. First, I asked Jessica if the firm has electronic letterhead and she said yes, but no one in her department knows how to use it. Second, she doesn't have an electronic signature she can drop into PDF letters. Therefore, they have to print a letter, Jessica has to sign it, then someone else scans it to PDF in order to email it. For example, we have electronic

letterhead, but if I'm going to make a PDF out of the letter I draft without having to print it and sign it, then I need a means of adding an electronic version of my signature to the Microsoft Word file the PDF is created from. See my signature block at the end of this report as an example. I obviously didn't print this whole report, sign it and scan it before I emailed it to you. However, it *looks* like I did.

- d. **Client Questionnaire Should Be A Fillable PDF:** The sample client questionnaire I received is 10 pages long. Not only is it supremely annoying to fill out a 10 page questionnaire with a pen or pencil, but I'm going to guess that the client's handwriting is often illegible. For example, I'm a 50 year old squarely within the demographic Jessica would cater to. The last thing I want to do is fill out a 10 page, single-spaced form with a pen because I can type faster than I can write and my handwriting is difficult to read.

- 5. **Multiple Recommendations Regarding Temporary Files:** As described in the workflow, a paper "temporary" file is created whenever a potential new client contacts Jessica's group. It holds the printed email detailing the initial phone interview with Alexis, the introductory letter, fee agreements and the client questionnaire.

- a. **Eliminate Paper Version:** All of the aforementioned documents could and should easily be maintained in electronic format only in the document management system. I realize that at this point in the process, the individual(s) may not become clients, but it should be easy to create a temporary holding place in the document management system for potential clients. After they become clients, the electronic files can be moved to their final home within the document management system. Since every step taken prior to a potential client becoming an actual client is unbillable, we want to eliminate or reduce them whenever possible. Needlessly creating paper folders, labels and paper copies of documents and emails represents overproduction and inventory waste.

- b. **Jessica Should Take The Electronic File To the Initial Client Meeting:** As described in the workflow, Jessica prefers to take an iPad to the initial client meeting rather than her laptop. She indicated that she doesn't like to take her laptop to meetings because the height is weird, she doesn't like the touch pad, the screen blocks her view of the client, and it's annoying to drag her laptop & power cords downstairs to the conference room. However, using the iPad isn't without issues. She has Word on the iPad, but sometimes the screen blacks out (to save power) and she

loses the notes she has typed in Word (she doesn't plug in the iPad when she's talking to clients). To avoid this, she takes notes in the iPad notes app (which seems to avoid the problem). To get them from the iPad to her computer, she has to use her smartphone hotspot and email the notes to herself (because the iPad isn't connected to the firm network). It should be noted that the notes are in the body of the email, not an attachment. She saves the email itself into the document management system and also prints it and puts it in the paper file.

First, I don't see any reason why Jessica's iPad couldn't be connected wirelessly to the firm network. If Jessica's iPad is connected wirelessly to the firm's document management system, she could easily check out all of the documents she needs to see for the client interview. The document management system's mobile app is free on iTunes. Having said that, in spite of Jessica's preference for an iPad, my recommendation would be to use her laptop instead. First, if she can't see the client very well over the laptop screen, then the chairs can be shifted. Second, it would be easy to make sure all of the client's electronic documents are on her laptop. Third, there should be no reason to bring any cables or chargers, assuming the computer has a decent battery.

The only issue I think she'd want to address is the ability to see the client's electronic documents and her laptop screen at the same time so she can take notes. To accomplish this, I recommend the ASUS MB169B+ 15.6" portable monitor. It serves as a portable, second high-def monitor (same resolution as a laptop screen) and requires no power brick because it gets its power from the USB cable connecting it to her laptop. It has its own stand or one can use any iPad stand to hold it up. It's only 0.3 inches thick (about the same as a pencil) and weighs only 1.76 lbs. This can be purchased from [www.amazon.com](http://www.amazon.com) for \$184 (see <http://tinyurl.com/pphzdu5> and the screen shot below). Of course, it can connect to any laptop with a USB port, not just an Asus model. This would allow Jessica to see the client's questionnaire or other documents while simultaneously taking notes on the laptop.

**One cable does the job,  
adding a second monitor has never been so easy**



- c. **Temporary Files Should Be Docketed:** As described in the workflow, the temporary files can stall for a variety of reasons and there is no formal follow-up procedure. Alexis just periodically looks at the orange files that have been sitting for a while and decides what to do with them. It should be someone's job to make sure that those files have a follow up date so that they don't languish. The follow up system cannot be Alexis periodically noticing that some of the organize files are getting stale (particularly since there shouldn't be a bunch of orange paper folders sitting around in the future). A case management system, Outlook or Wunderlist could be used for this.

Ultimately, paper files of whatever color sitting on shelves and desks should never be relied upon as a means of tracking work or tasks. Stacks of files sitting around reminds no one of anything. I saw a lot of paper files all over the office when I was on-site and one of the goals of the department should be to eliminate that as much as possible.

6. **Stop Public Records Search Before Clients Confirmed:** As described in the workflow, Danielle will search the public records for deeds before the initial client meeting. At that point, we don't know if the potential client will actually decide to go forward. I'm confident that Jessica would have enough information to formulate a fee quote without having the exact detail offered by the deeds. If the potential client decides *not* to go forward, then the time spent on the public records search is waste. Therefore, I would recommend that this search is conducted *after* a potential client decides to proceed.

7. **Everyone Should Track All of Their Time:** With transactional areas of practice involving flat fees, it's extremely useful to calculate the effective hourly rate based upon the flat fee being charged. In order to determine the real effective hourly rate, **everyone needs to track their time** - not just Jessica and the paralegals. In the future, Danielle, Cassidy and any other people not currently tracking their time need to begin doing so. Otherwise, it is impossible to determine the total number of hours required to render a flat-fee service like an estate plan. It also gives Jessica a good idea of how administrative people are spending their time. Require that ALL administrative time to be entered into a non-billable administrative file in the accounting system where it can be compiled and later analyzed. Jessica asserted several times that her team is bogged down in non-billable administrative tasks. The only way to ascertain exactly what is consuming everyone's time is for all of the time to be entered (at least 8 hours a day for full-time employees). I know it's annoying, but considering the magnitude of the problem, it's definitely worth the annoyance.
8. **Recommend Raising Estate Planning Fees:** When I asked Jessica why she charges what she does, she indicated that she bases her fees on what she feels is reasonable and what the market will bear. Further, she feels her fees are at the high-end of the local market. She also indicated that she's hesitant to charge more for fear of losing referrals and she gets almost all of her work from referrals. I've heard a similar sentiment from other lawyers many times. However, it is typically based upon a gut feeling rather than real market data; and Jessica's fees *should* be on the high end of the local market. Finally, it's extremely unlikely that people refer clients to Jessica solely because they think the referred parties are going to get a big discount compared to other similarly experienced lawyers. A small fee increase of 5% to 10% helps the bottom line and isn't likely to have any impact on referrals or the rate at which potential clients become actual clients.
9. **File Creation Recommendations:** As described in the workflow, the physical file creation process is very time-consuming. In the future, physical files should not be created and everyone should rely on the electronic file in the document management system instead. Creating an unnecessary physical paper file in addition to the electronic one is waste.
10. **Improve Drafting Process:** The drafting process is taking way too long and this is a primary area which can and should be improved. Here are the things that should be done:



- a. **All Documents Should Be Generated From One System:** Data is being manually entered into multiple systems. Additional templates can be added to the WealthDocx system; and all of the documents currently being generated by the legacy mail-merge system could be generated from the same data set in WealthDocx.
  - b. **Drafts Should Not Be Printed:** After Alexis completes documents, a link to the files in the document management system should be emailed to Jessica for review.
  - c. **WealthDocx Should Be Further Customized:** If Jessica consistently changes the documents generated by WealthDocx in the same way, then those changes should be made to the system. Running redlines between the husband and wife set of documents in order to ensure consistency should be unnecessary. Further, I don't fully understand what Alexis needs to do in order to format the documents after they're generated, but her changes should also be unnecessary. As long as the documents are being tweaked and modified post-assembly, they're giving up much of the speed advantages one would hope to achieve with a document assembly system like WealthDocx in the first place. I know that WealthDocx documents are set up properly within Word (using a feature called styles proactively) so they should take only a few minutes to properly format, not hours.
  - d. **There Must Be A Disconnect Here:** If there's no way to avoid Jessica having to run redlines between husband and wife document sets, then I do not understand why the document management system can't integrate with Word's native document comparison functionality (most of our clients who use the document management system have these features integrated). If that is simply impossible for some reason, then Jessica should be trained on using the document comparison program that the firm does have integrated with the document management system (Workshare Professional?). There *must* be a way to avoid the steps she's going through now.
11. **Signing Conference Recommendations:** Here are a few recommendations regarding the signing conference.
- a. **Call Witnesses Into Conference Room Only When Necessary:** It's a huge waste of anyone's time to sit through all or most of a signing conference only to really be needed for the last 5 minutes. After Jessica has explained everything to the clients and the documents are ready to be signed, whoever is available should be called into

the conference room for the minimum amount of time necessary to witness/notarize. Related to this, Jessica told me, "Cassidy is only part time and does not wish to attend executions." I honestly don't think Cassidy's wishes should factor in. Ideally, you would want your lowest paid employees being witnesses since occupying their time with it is less damaging from a billing perspective. If she's available, Cassidy needs to participate regardless of whether she wants to or not.

- b. **Mail Copies to Client:** It's very expensive for Jessica to sit in a conference room for another 30 minutes with the clients while copies are made after signing. I would recommend that the clients simply leave after signing and the copies are mailed to them after the fact.
- c. **Ask Client if Scanned Copies Can Be Emailed:** If the client is amenable to it, it would make sense to email PDFs of the executed documents to the client rather than print and mail them via USPS. Email encryption programs like <https://protectedtrust.com/> make this easy. In the alternative, we have many clients who use <https://www.sharefile.com/> for this purpose (secure delivery of large PDF files to a client).

- 12. **Revise Extremely Time Consuming Vault Process:** The vault process is *unbelievably* time consuming. Not only is all of the time spent non-billable, but the firm doesn't charge anything for the safe keeping of client documents. Here are my recommendations to fix this process:

- a. **Create a Spreadsheet Log File To Track The Documents:** An Excel spreadsheet could easily be created in which a sequential number is assigned to each new client envelope (0001, 0002, 0003, etc.) and subsequent columns could identify what is in the envelope. The cover sheet could simply include the envelope number and the client's name.

All background information about the client could be kept in the Vault Log Spreadsheet and in the client's electronic file (or a case management system). But it certainly doesn't have to be on the envelope. This would allow all envelopes to go into the vault in numeric order and they would never have to be shuffled around later as is required when they're stored alphabetically. If Jessica wanted John Smith's envelope, she would just open the log, hit Ctrl+F (shortcut key for "find") and type in the client's name. She would see the envelope number adjacent to the client's name and that envelope would be in sequential order in the vault.

By doing this, the envelope label could be 4 lines instead of potentially 2 pages of text and explanation. The label could be as simple as the following example and should take seconds to create (recommendation on creating this label follows). Finally, because they're not going to be filed in the vault alphabetically, the next numbered envelope would simply go at the back of the last cabinet and none of the existing envelopes would ever have to be shuffled around to maintain alphabetical sorting.

**JAMES R. (deceased) & LINDA R. McDUFFEE**

**File No. 41476/0001**

**Attorney: JMB**

**Envelope Number: 0281**

- b. **Stop Re-Entering Data:** The legacy mail-merge system should be eliminated as soon as possible. Instead, the data already in the document assembly system should be used to populate as much of this form as possible. The cover sheet would simply need to be converted into a HotDocs template.
  - c. **Buy Additional Vault Cabinets:** The firm shouldn't represent to clients that it's safely storing their original documents in a fireproof, locked cabinet when in fact not all of the documents are being stored in that manner. Fireproof cabinets may be overkill since the likelihood of losing original documents due to fire or water damage is probably statistically insignificant. However, whatever cabinet they're stored in should definitely be locked at all times.
  - d. **Charge for Document Storage:** I would recommend that this is a service which is offered for a flat fee of \$25. That would at least cover some of the processing costs; and storing every client's documents is obviously not a zero cost situation for the firm.
13. **Offer An Estate Planning Maintenance Program:** This is becoming increasingly popular among estate planning departments and firms. They are often called Client Care or Family Care programs and for a really good example of one, see <http://tinyurl.com/opuyk6v>. Typically, the firm charges some amount of money per year (say \$850 or \$1,000) and in exchange, the client may receive:
- a. Unlimited changes to the existing plan documents.
  - b. An annual family meeting during to discuss changes, updates, asset positioning, changing family circumstances.

- c. Free referrals to other professionals (such as investment advisors).
- d. Asset tracking to make sure all relevant assets have been transferred to trust.
- e. Education - access to monthly seminars (maybe 30 minutes), possible recorded webinars, updates delivered via newsletter or email if changes in law impact their plans.
- f. Guaranteed percentage for trust administration fees.
- g. Discounts on future work.
- h. Access to health care directives via a service such as LegalDirectives LLC<sup>6</sup>.

14. **Document Delivery Recommendations:** More and more estate planning clients would accept and even prefer that copies of their documents be delivered electronically as PDFs. There are multiple ways that law firms are accomplishing this:

- a. **Encrypted Email:** As previously mentioned, our favorite service in this regard is <https://protectedtrust.com/>. It's extremely inexpensive, simple to use, integrates with Outlook, allows one to send up to 5 GB (5,000 MB) worth of attachments to a single email, and the recipients do not need to buy anything or register with any service to open a Protected Trust email.
- b. **Secure Document Delivery:** Another way of sharing large documents confidentially is a service like <https://www.sharefile.com/>. This doesn't necessarily involve email (although it can). ShareFile will also "brand" the service so that it looks like part of the firm's website when clients use it.
- c. **Flash Drives:** I have several estate planning clients that deliver client documents on a flash drive that looks like their business card. I've seen these and they look *really* good. Below is a screen shot of what they look like (they're the same size as business cards or credit cards). The cards below are from a company called Flashbay<sup>7</sup> but many companies sell them.

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<sup>6</sup> See <https://www.legaldirectives.com/>

<sup>7</sup> See <http://tinyurl.com/pkszwkm>



15. **Regularly Touch Existing Clients:** During one of my conversations with Jessica, she indicated that the other T&E offices at the firm generate a lot of recurring revenue from existing clients (rich families that need ongoing help with many issues). Just because Jessica's practice doesn't focus on extremely high-wealth families doesn't mean that existing clients shouldn't be her best source of new work.

"From my own experience over two decades, clients are the best source of new work for law firms. Second best are referral sources. Now, according to a post by Jim Hassert, research backs that up. Jim is doing a series on the 'Six facts every lawyer must know to develop business.' Last week was 'Fact 2: You must start with current clients.' He quotes from The Rainmakers' Toolkit by Harry Mills as follows:

Research shows:

The chances of selling to an existing client are better than 1 in 2.

The chances of selling to a lost client are 1 in 3.

The chances of successfully selling to a fresh prospect are 1 in 8.

The exact numbers will be different for your firm, but experts agree that in every business, it's much easier to sell to people who know you than to sell to strangers. So, your

planning and legal marketing efforts should put the emphasis on clients first and foremost."<sup>8</sup>

The problem for Jessica in this regard is that she's stopped reaching out to existing clients because she feels her department is understaffed and she doesn't have time. She's no longer sending out birthday cards, holiday cards, anniversary cards or thank you cards. Those things are important. It's also best practices for T&E lawyers to reach out to all clients at least annually to see if circumstances have changed for them, ask whether they'd like to update their plan, and update them on any new developments in estate planning and estate taxation. If Jessica doesn't have time to start doing this again, then she needs to task someone with it.

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<sup>8</sup> Existing Clients Are Best Source of New Business by Tom Kane, May 16, 2006, posted on Legal Marketing Blog.com, see <http://tinyurl.com/phh4was>.



# SAVING FROM WEALTH COUNSEL

## Quick Reference Guide

### SAVING WEALTH COUNSEL DOCUMENTS

- After you generate from Wealth Counsel and document is open in Word, select File > Local Save As.
- From *Save As* dialog box, select the file location.
- Go to the Desktop > WCDrafts > subfolder with your name (ex: Charla, Paula, Tina).

NOTE: The location should stick unless you need to change it.

- Type the File Name.
- Click **Save**.
- Repeat for each document.

### COMPARING DOCUMENTS USING WORD

- From Word, select Review tab > Compare drop-down > Compare.
- From *Compare Documents* dialog box, select **Browse for Original**.
- From *Open* dialog box, locate the document from the saved location (Desktop > WCDrafts > subfolder with your name).
- From *Compare Documents* dialog box, select **Browse for Revise**.

NOTE: The location should stick unless you need to change it.

- Locate the revised document from the saved location above.
- Click OK.
- Make your revisions to the document and save often.
- After you finish, save and close Word.

NOTE: Make sure all documents are closed before saving to workspace.

### SAVING TO WORKSPACE

- From the Task bar, click **Show Desktop** button located at bottom-right corner.



- From the Desktop, double-click on WCDrafts > subfolder with your name.
- Open Outlook then locate the workspace and subfolder to store the documents.
- Once you have the Workspace subfolder selected, if it has any files they will display to the right.
- Rearrange program windows to display both of them side by side.

NOTE: Shortcut; right-click on Task bar, select **Show windows side by side**.

- From the WCDrafts window, select all the documents using the Shift or CTRL key.
- Drag and drop them into the workspace subfolder.

- Verify they are saved then DELETE from WCDrafts window.
- Press the DELETE key
- From the *Delete* dialog box, select **Yes**.

### CHECKING OUT/IN DOCUMENTS TO COMPARE

If you need to use Word compare to revise document then check out document from FileSite/Workspace.

#### Check Out

- From workspace subfolder, select all the documents using the Shift or CTRL key.
- Right-click > Check Out.



- From *Checkout* dialog box, select Browse to change Destination Path to Desktop > WCDrafts > subfolder with your name.

NOTE: The location should stick unless you need to change it.

- Select **Apply to All documents**.
- Click OK.

NOTE: The icon will display a red checkmark.

- Now you can compare documents. See section *Comparing Documents Using Word*.

#### Check In

- After comparing documents, from Outlook, locate the checkout documents in the workspace subfolder.
- Select all the documents using the Shift or CTRL key.
- Right-click > Check In.



- From *Checkout* dialog box, confirm **Replace Original** is selected.
- Select **Apply to All documents**.
- Click OK.
- Verify they are checked in then DELETE from WCDrafts window.
- From the Desktop, double-click on WCDrafts > subfolder with your name.
- Select all the documents using the Shift or CTRL key then press the DELETE key.
- From the *Delete* dialog box, select **Yes**.