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# Boxing day

## Making case closing an essential part of office hygiene



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The lawyer, reviewing some pre-trial documents, surveyed the living room. A rainy Sunday led to numerous children's games, books, and toys lying about. One of the two children tromped down the stairs, into the living room. "Can we make popcorn and watch a movie?" The lawyer's eyes widened, scanning the mess strewn across the living room. The lawyer's daughter recognized the look, and said, "I know. Put our

stuff away before we start the next thing. I'll get my brother." The lawyer, pleased this took simple eye widening, went back to readying for trial.

### Metaphorically speaking

Putting away toys before starting the next evolution serves as a wonderful metaphor for closing case files properly, completely, and regularly. The immediate needs presented by current client concerns, trials, and litigation tend to draw us to those pots bubbling in front of us. Closing files can then become a triage function. We'll get to those when we have some time, some may decide. Triage or not, this leads to accumulated time debt. The more files build up, the more unmanageable the task feels. Beyond the neat freak tendencies, why should one care? Closed files make open files easier to manage, locate, and search. For those with paper, the binder/file reduction cleans up physical space. Formally ending the relationship with a client, as the file closes, makes errors-and-omissions carriers happier. Most of all, it makes retirement, illness, sudden death, or selling a firm far easier without that accumulated time debt.

### Case-closing process, checklist, and job duty

So, how does one prevent that closing backlog from building up? Implement a case-closing process. The best processes include checklists. Checklists allow someone to check off that which needs doing. The process should also specifically list the office roles responsible for each step, so folks are accountable for the tasks. Preparing that checklist and the job requirements takes upfront effort, yet the effort pays dividends. While evaluating one's case-closing process, it is a good time to examine file systems overall.

Why? Because to the extent one's practice still relies on paper, now's the time to reduce that paper reliance. Papers get lost, misfiled, and cannot be searched or recovered by the information technology person. They take up manual filing time and storage space. And on the back end, they require decisions about whether they get scanned, stored offsite, offered to the client, and what portions, if any, can be disposed of. These last bits require careful consideration of State Bar requirements, which should be checked periodically to make sure one's case and record retention program remain legally compliant.

The better other way is digital retention. The benefit here? Relatively inexpensive storage costs. Couple this with cloud storage and a backup system and one's data is backed up. The office can maintain the files indefinitely without needing to set five-year reminders to call boxes back from offsite storage, review them again, and then shred them. And the files remain searchable for prior expert depositions, outlines, briefs, complaints, or other work that might save one from recreating the wheel. It is no mystery which method we recommend. Reducing paper use as much as possible and relying on digital retention greatly streamlines the practice.

### Loose ends

Build that checklist to ensure nothing gets overlooked. This includes checking for protective orders and following up on what needs to happen with protected documents pursuant to any orders. Best practices here include reminding any experts who were provided the material that the documents need to be deleted now that the case is over, as well as deleting them from the case file. That's once the defendant's check has cleared, of course.

Defense counsel will feel better if one sends an email stating that one has contacted experts, reminded them to delete the material, and that one has deleted it as well. While making them feel better isn't necessarily part of our job, recognizing we'll see them again and maintaining professionalism is.

Also include a checkbox for speaking with the client and asking about what materials they want returned. They probably don't want the bag of bloody clothes the paramedics cut off – the same ones the biomechanical expert asked for. But they will want personal tangible items – actual photos, cards, original death certificates, and the like. Finally, include two checkboxes related to funds. One is to make sure all final funds have been distributed to the client. The other is to check the lien file, reconfirm all were paid, and that all the lien checks cleared so there's no lien lurking out there.

### Outro

Back to our lawyer, preparing for trial. The kids swept through the living room, tidying up without any prompting, knowing a movie lay in their future. The lawyer got up, headed to the kitchen, and started making popcorn. While neither a usual nor favorite technique, sometimes a little screen time was warranted. The babysitter of last resort on a trial preparation weekend.

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