Technology Pointers for Young Lawyers

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E-Mail, IM and Voice Mail Guidance and Management

A. Guidance

• Always keep it squeeky clean
• Be positive – not caustic or doleful
• Don’t write and send when you are mad – send it to yourself, review in the cold, hard light of day
• Use meaningful subject lines – especially for clients and partners
• Use spell check
• Be proud to see it as Exhibit A in Court

B. Management

• Use folders
• Make them easy to search
The Internet of Things

• Internet has transformed many common tasks undertaken by associates.

• Clients expect that you will utilize publically available resources in conducting your work to include:
  • Fact gathering – even as to the client
  • Legal research – through some client guidelines won’t pay for computerized legal research
  • Templates for pleadings
  • Witness/Deponent investigations
Litigation

- Access to preformatted templates and relevant prior work product
- Find and insert supporting arguments into your draft
- Pinpoint the supporting authority or quotes
- Insert KeyCite® flags for review and citation verification
- Append citations in full text
- Locate authority cites
- Format your documents according to jurisdictional formatting rules
- Format the citations in your documents using The BlueBook, ALWD, or other jurisdiction-specific rules and insert a table of authorities with CiteAdvisor

Transaction

- Scan your documents, alerting you to errors, inconsistencies, and missing information
- Avoid unintended drafting errors and reduce risk
- Identify and assess potential issues, such as defined-term and cross-reference discrepancies
Statute of Frauds

What is the Statute of Frauds all about? The Statute of Frauds, interestingly enough, is a name for "When do you need a writing?" What contracts have to be in writing? When I was a law student, I thought that all contracts that were enforceable had to be in writing. This is not true. Only certain types of contracts must be in writing. Of course you have proof issues if you have oral contracts, but all contracts require a writing.

The Contracts that Must be in Writing (MY LEGS):

- Contracts for the sale of land.
- Contracts in consideration of marriage.
  - This is not a promise to marry. This is more like, "If you marry me, I will buy you a Bugatti."
- Contracts that cannot be performed within a year of their making, must be in writing.
- Surety.
- Promises by an executor or an administrator to answer personally for the debt of a deceased must be in writing.
- Sale of goods valued at $500 or more.

What does it mean when they say that a contract is within the Statute of Frauds?

If a contract is within the Statute of Frauds it simply means that you need a writing. If it is outside the statute, then no writing is required. Remember that basic rule.

When I say that a contract must be in writing and it fits within one of the above six criteria, if there is no writing, there still may be a remedy. We still might look at restitution, and in certain scenarios, part performance, actions in reliance might help you in taking you out of the Statute of Frauds requirement.

An overview of the Writing Requirements. Promises by administrators or executors to answer for the debts of a decedent if you are charged with being in...
Client Tracking and Client Background

• Very important to understand your client’s business and developments surrounding that business

• Various apps provide clipping services, providing developments on your client’s and their business

• Lexis, Westlaw, Docket Reports and Bloomberg can provide notices of new case filings

• “Relationship Science” for business development
E-Discovery

• E-discovery Processes
• Predictive Coding
E-Discovery Continuum
Our Typical Workflow

Early Case Management

1. Perform Matter Intake
2. Initial Meeting(s) with Case Team/Client/Retention Plan
3. Implement Retention Plan/Issue and Track Legal Hold
4. Collect Sample of Relevant ESI
5. Rule 16(b) Conference or State Equivalent
6. Conduct Rule 26 Meet and Confer(s), Draft ESI Protocol and Confidentiality Order
7. Define Scope of Relevance and Review Strategy (Predictive Coding vs. Analytical Review)
8. Perform Early Case Assessment (ECA)

Collection – Processing

1. Collection Planning Meeting
2. Collect Data
3. Filter and Cull Using Analytical Tools
4. Export Data

Review

1. Produce Documents
2. Quality Control Process
3. Review
4. Review Planning Meeting
Predictive Coding

• Predictive Coding involves the training of a computer software algorithm to recognize patterns in documents and then the application of that learning to the document set.

• Predictive Coding compares sets of documents to determine whether documents are relevant (i.e., contain information similar to the documents identified by the subject matter expert) to a specific set of issues.
Social Media Investigations

- Use of social media is prevalent in Corporate America
- Most witnesses/jurors engage in some level of social media
- Social media investigations are now an important part of litigation:
  - Investigation
  - Preservation
  - Production
- ABA has recently opined that trial lawyers may monitor public social media activities of prospective and sitting jurors (Formal Opinion 466, April 24, 2014)
QUESTIONS?