

Smart Document Generation

Improve Your Firm's Drafting – and Its Bottom Line

BY BARRON K. HENLEY, ESQ.

Have you ever examined how documents are generated in your office? This mission-critical process is rarely analyzed, although it can almost always be improved. Drafting efficiency directly affects your firm's bottom line, so it certainly merits an administrator's evaluation.

WHAT'S WRONG WITH THE DRAFTING STATUS QUO?

Let's consider the most common drafting approach: using an old document as the basis for a new one. For example, if a lawyer needs to draft a will containing a special needs testamentary trust, she is likely to try to find the last one she drafted as a starting point. Once the source document is found, it is modified as necessary.

Proponents of this approach point out that it is logical, intuitive and fairly quick. However, it has significant drawbacks. For starters, a lot of time can be wasted trying to find the starting-point document. (Sometimes, it is never found.) Furthermore, it is easy to make mistakes such as:

- including language from the source document that should have been deleted;
- failing to add language that wasn't present in the source document; and
- simple clerical errors, as word processor search-and-replace exercises rarely catch everything.

Finally, whether this approach is fast really depends on what you compare it to. It is unquestionably faster than starting a new document from a blank page, but it is also much slower than incorporating document assembly technology into the process (more on this later).

As a second example, consider dictation. Proponents typically argue that it is the most efficient way for lawyers to produce documents. However, the cost structure for this approach is substantially higher because it requires a transcriptionist (with payroll being every law office's highest cost). A financial analysis of this approach often reveals that while it requires less lawyer time, the overall cost per document is higher than other methods.

Furthermore, a closer look at the process reveals many steps. The lawyer dictates a document (often reading from existing printed documents), and then gives the tape or voice file to the secretary, who transcribes it, prints it and returns a draft to the lawyer. A lack of structure in dictation, simple mistakes and difficulty understanding the audio reproduction make it likely that corrections will be required. The lawyer reviews the draft, marks it up and returns it to the secretary



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to enter the changes. It is printed yet again, and the lawyer often compares the most recent version against the marked-up previous version to ensure that all changes were entered. Assuming no further adjustments are needed, the document is printed in final form.

As a result of all of these steps, the total amount of time required to complete each document is often much higher than the lawyer assumes. Furthermore, this process creates a 100 percent dependency on support staff to produce work product – and today’s trend is unquestionably headed in the opposite direction.

HOW DRAFTING METHODS ARE IDENTIFIED

Most lawyers have at some point tried to identify the most efficient and accurate way to create documents. However, their personal skill sets, the availability of support staff and the tools they have at their disposal typically limit their options. As an administrator, you can influence all three of these factors, but some are easier to impact than others.

Approach No. 1: Upgrading the Lawyers.

Most lawyers have plenty of room to upgrade their own drafting skills by increasing word processor proficiency, learning to type (or to type faster) or using speech recognition technology. However, even though lawyers will usually admit that technical training would make them more efficient, they often refuse to invest the (non-billable) time necessary to take classes. Even if they do agree to sign up for training, trying to find common available times on every lawyer’s calendar for a class is often a logistical nightmare.

Sadly, many older lawyers have resigned themselves to the expectation that no amount of training will enable them to use the technological tools that their younger colleagues have grown up with. On the other end of the spectrum, younger lawyers tend to have a false sense of security that they’re skilled users just because they’ve been using technology their whole lives. However, professional-level tech skills aren’t developed by mere exposure. For example, driving every day doesn’t make one a



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professional driver, and cooking every day doesn't make one a professional chef.

The use of technology is much the same. In order to become a professional, one must undergo specialized training, practice and then demonstrate proficiency. More importantly, your lawyers and staff *should be* professional-level users of the technologies necessary to perform their jobs. In my experience working with law firms, this is rarely the case and often isn't even an objective. I can't tell you how many lawyers have told me, "I'm sure I'm the most technologically challenged person in this office." Unfortunately, they often seem content with that status, as if there's nothing they can do about it.

Approach No. 2: Just Hire More Support Staff! If only it were that easy. For many firms, budgetary constraints and hiring freezes have eliminated the possibility of bringing on more support staff. The ratio of support staff to lawyers is decreasing worldwide as the legal profession tries to reduce payroll costs in a down economy. Of course, this is also affected by the fact that younger lawyers tend to be more tech-savvy and self-reliant in producing work product. Regardless, it's unlikely we'll ever again see the days of one secretary per lawyer.

Approach No. 3: It's All About the Tools. In view of the foregoing, it's likely that the factor you can most easily affect is the drafting tools to which your lawyers and staff have access. While some tools require a higher level of skill to use them properly, others actually compensate for a lack of skill and make it difficult for a user to make mistakes. (No, I am not crazy!) A primary example

of such technology is document assembly, also known as document automation.

DOCUMENT ASSEMBLY DEFINED

At its most basic level, document assembly involves the use of software to quickly and accurately generate customized documents. It allows you to capture the consistencies in your documents, such as what sections, paragraphs, sentences and words go where under what circumstances. It also allows you to capture irregularities in your documents. Irregularities include custom provisions and intelligent language building that can accurately consider thousands of inputs to produce the correct phraseology every time. Instead of cut and paste, you can pick desired options or alternatives from lists. (See Figure 1.)

Instead of replacing <Testator name> with your client's name 25 times, you can respond to questions and let the computer do the clerical work. Users must only answer questions in an interview to produce perfect, completely customized documents. Neither word processing nor computer skills are required.

THE KEY PLAYERS AND THE BENEFITS

A dominant player in document assembly is HotDocs (www.hotdocs.com). Other providers include DealBuilder (www.business-integrity.com), Rapidocs (www.rapidocs.com), QShift (www.ixio.com), Pathagoras (www.pathagoras.com), Perfectus (www.perfectussolutions.com), ActiveDocs (www.activedocs.com) and Exari (www.exari.com).

Keep in mind that document assembly software is a tool you can use to automate the documents your firm already uses. By contrast, commercial drafting systems include the documents, require you to use them, tend to be expensive and require annual subscription fees.

Here are a few actual examples of the benefits of document assembly software. An estate-planning lawyer in California was spending an average of 10 hours to generate a standard set of documents

engagement agreement. Spending one minute to generate a \$45 fee translates to an hourly rate of \$2,700.

Other benefits of document assembly software include the ability to re-use the same information across a set of documents (no redundant data entry), higher accuracy, less reliance upon support staff, quickly ramping up new associates and generally doing more work with fewer resources. If done properly, it's not possible to bill hourly and



Figure 1: Example of Document Assembly Software

for which she charged a flat fee of \$2,000. By automating her document generation using HotDocs document assembly software, the time required fell to 1.5 hours while accuracy increased. So, her effective hourly rate went from \$200 to \$1,333. These are not unusual results.

On the other end of the spectrum, a law firm in Michigan was generating about 50 letters of various types per week and spending an average of eight minutes of time per letter (6.67 hours per week). By automating all of the letters and linking the templates to a master contact database in Microsoft Outlook, those same documents took only one minute each. This freed up 5.84 hours per week; and at \$50 per hour, that's a savings of \$1,168 per month or \$14,016 per year. Now consider that this firm charges a flat fee of \$45 per letter as part of its

make money, so a review of billing strategies may also be appropriate.

Ultimately, if you're looking for a way to improve your firm's efficiency and profitability, document assembly may be the perfect tool. ✱

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Barron K. Henley, Esq., is a partner in the Columbus, Ohio, office of the Affinity Consulting Group (ACG), which provides technology, marketing, management and finance consulting for law firms. A top consultant on law firm automation, Henley has worked with hundreds of law firms and legal departments to automate their practices as they relate to document assembly. Contact him at bhenley@affinityconsulting.com, and learn more about ACG at www.affinityconsulting.com.