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THE BOTTOM LINE

The newsletter of the ISBA's Standing Committee on Law Office Management and Economics

Needle in a haystack

By Toby Paulose

A law firm or company is always searching for that needle in a haystack. The ability to find a good candidate is something that all companies desire. The process of conducting interviews and searching for resumes can become tedious. Reviewing resume upon resume is not the most exciting process to be taken, but it is an important first step of the hiring process. The process does involve many factors that must be considered. Those doing the hiring for their firms/companies, and their recruiters, have a pivotal role in the ultimate success and profitability of their firm/company by virtue of their ability to help make the right hiring decisions for them.

Recruiters must have the ability to weed through resumes leading to a potential interview. This article will go over certain processes that have assisted recruiters along the way—Also what to look for in a resume, what questions to ask during a phone interview. The types of interviews that can be conducted with a potential candidate and the type of questions you are able to ask to get the information that you are looking for during a face to face

interview will also be addressed.

During my research I have learned, and understood, that the resume with the most experience shown is not always the right fit for the position. Many factors are to be considered before you actually conduct the interview. The first is that you, the recruiter, must know exactly what position you are sourcing. If you do come across a resume that peaks your interest, make sure you fully understand the requirements for each position. A good way to assist you in this process is to make a short list of the requirements for each position. After creating that list, a good recruiter should have a solid understanding of what position a candidate is better suited for in the law firm.

When reviewing a resume, you must consider certain factors. One thing to consider is "Have you seen this resume before?" More often than not, you will come across the same resume for each open position. Candidates have a tendency to apply for multiple positions within the same firm/company. Another is reviewing the education. Does the candidate meet the education requirements for your law firm? Is there an education requirement for your position? These are things that you must consider before you initiate the next step.

Look at the candidate's most recent employment. Are you familiar with the firm/company listed? How long has the candidate worked there? What were the responsibilities of the candidate for each position? These are questions that you must consider when reviewing the qualifications of a candidate. When reviewing the job history of a candidate you must also take into account the consistency of the resume. Look for gaps in the resume. Are the years in order? Does it jump from 2003 to 2006 as the next position held? What happened during those three years on the resume? If you see gaps and many

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inconsistencies on the resume, that should be a red flag. You want to come across a resume that shows a consistent employment history in an order that is easy to follow. Research has shown that recruiters prefer not to guess and wonder what the candidate was doing for those three years. If you are interested in the resume, you should conduct a phone interview. You then have the opportunity to inquire as to what the candidate was doing during those three years.

You must also take this into consideration: Does the person fit the requirements that you are looking for? The belief is the less information provided by the applicant, the more likely he/she may not be contacted for a phone interview. If you come across a resume that lists one to two tasks for each position the candidate has worked, would that be an individual you want to interview? If the person can not take the time to list all of his/her responsibilities on the resume then why would you waste the time to contact him/her? As harsh as that may sound, remember you are looking for that needle in a haystack.

Presentation and layout of the resume you are reviewing: Why is that important? What you are searching for can vary for each position that you are considering to fill. Sometimes the simplest words listed on the resume can give you an idea of the candidate's work ethic. Words such as hardworking, experience, dedicated, resourceful will give you an idea of the type of candidate you are recruiting. With any entry level position that you are looking to fill, you may not be too worried about the presentation and accuracy of the resume. The higher the position the candidate is applying for, the more impor-

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tant the layout of the resume comes into play. Something that certain recruiter's look for with each resumes is a cover letter: Many hiring managers are very big fans of cover letters. Why, you might ask? A cover letter is an introduction to the candidate. It will explain to you what type of person you will be interviewing and what experience the candidate brings to the table, within those two to three paragraphs. For a candidate that is looking for a position, a cover letter can go a long way to selling their skills and experience to the recruiter.

The next step in the process is to conduct an interview with the candidate. As a recruiter, there are many types of interviews that can be conducted with the candidate. The most common are the telephone interview and the face to face interview. Firms or companies also conduct other types of interviews based on the position they are looking to fill. A Panel interview would involve a number of interviewers interviewing one candidate. There is also a Group interview that consists of more than one candidate being involved in the interview. Most sales companies use this method of interviewing.

As another option, interviewers conduct Stress and Behavioral interviews with the candidate. Stress interviews tend to create an uncomfortable environment. The interviewer would ask situational or off the wall questions such as "What is your favorite vacation place?" to get a gauge on how quick on his feet the candidate can think. With a Behavioral interview, a candidate will be asked questions that will place him/her in difficult situations or demonstrate behavior from his/her past employment.

Certain recruiters are particular about asking Behavioral type questions during the interviewing process. It gives a recruiter an idea of what the candidate can offer in terms of adaptability or self-management skills. Will the candidate be a team player, organized, dependable? Or will the candidate fold in pressure situations? With conducting a Behavioral interview, certain types of questions should be asked. Open-ended questions, that require the candidate to answer more than just a yes or no, and "why" questions should be asked to give you a little insight into the level of motivation the candidate possesses, decision making abilities, and past behavior. Past behavior is a good indication of future behaviors.

Before a recruiter begins to conduct an interview, he/she must be fully aware of the employment laws. Laws are in place to protect candidates from such discrimination as their race, religion, sexual orientation, and disability. You must be fully

aware of laws that protect the candidate. Recruiters have, unfortunately, failed to remember such rules. There are many types of questions that you can ask, and many questions that you are not allowed to ask such as about the candidate's family, disability, age, and national origin.

Attorneys and hiring personnel should be certain to familiarize themselves with the appropriate, federal, state and local laws and/or themselves, as would lay people, consult with employment counsel in this regard before undertaking to recruit individuals for the firm.

You have now had the opportunity to review resumes. You have begun to weed out the resumes that you do not want to consider for the position and the ones that have peeked your interest. You had the opportunity to discuss the different types of interviews that can be conducted. Before you decide to bring these candidates in for a face to face interview you would want to conduct a phone interview or a "phone screen". Telephone interviews are a way for you to eliminate the less qualified candidates that do not fit the position.

Conducting a phone interview gives the recruiter an opportunity to see if the experience the candidate possesses is a good fit for the position. Why would someone want to do a phone interview first you might ask yourself? The reason is simple: to consider if you want to bring someone in directly to the office for a face to face interview. Upon doing so, the recruiter can then find out that the candidate you conducted the phone screen interview with either did or did not match your expectations especially considering the qualifications that you reviewed from their resume.

The idea is that you basically do not want to waste your own time nor the time of the candidate. How long would you consider that the phone interview should last? The common length of time to conduct a phone interview is between 10 to 12 minutes, and often, normally double this amount for professional candidates. This may seem long, but it is worth it. In that time frame, you are able to garner enough information about the candidate to make you want to consider a face to face interview. It can also vary depending on the position you are filling. Recruiters occasionally conduct phone interviews that last 30 minutes or more. In these situations, the recruiter was able to establish a good rapport with the candidate. The candidate was able to answer every question and gave examples for each answer.

A common question that is asked is how long a recruiter needs to stay on the phone with someone that you know is

not qualified. After being on the phone with the person, you generally get the idea within the first two minutes of the conversation if the person will be a good fit for your law firm/company and the position. A recruiter will take into account what answers the candidate gave to the questions and how professional the person was with you over the phone. Will the candidate show the type of enthusiasm you expect for the position? That will not always be the case for each candidate you phone interview, unfortunately. It becomes a judgment call based off of your notes and the experience that person has provided. Then there are times when you come across a candidate that blows you away on the phone, and when he/she comes in for the face to face, the candidate turns into the biggest disappointment—like the 2006 Chicago Bears and their Super Bowl run. While it does happen more times than you'd like, if you take the time to really weed out those candidates on the phone, the chances of you running into that type of candidate diminish.

What type of questions should be asked during a phone screen? The types of questions that a recruiter will typically want to ask are basic questions that give him/her enough information about the candidate and his/her experience. "What made you respond to the ad?" or "How did you come to learn about this position?", "Can you tell me about your work experience?", "Describe your responsibilities?" These are a list of simple questions that you can ask over the phone. The plan is to get the candidate to do all the talking and not have him/her answer with only yes or no answers.

A recruiter will also have the ability to ask probing questions during the interviewing process. You want the person to talk, but to not control the conversation. Remember the candidate is trying to impress you and make you consider him/her for at least an opportunity to come in for a face to face interview. You should always ask the candidate to list their strengths and weaknesses and if there is something that they wish to improve. Everyone tries to be honest with their answers when it comes to that question. What if someone states that they do not have a weakness? You will definitely come across an individual that will say that they do not have a weakness, and to those individuals you might want to ask them to really think about that question. More often than not, they actually do have a weakness, and either the candidate is not aware of it, or he/she does not wish to share it with you.

A question that a recruiter can pose to

all candidates over the phone: "If the position was to come down to yourself and another individual, and the both of you have the same amount of experience and skill set, why would we choose you over the other candidate?" It forces the candidate to think on their feet immediately and give you an answer, whether it will be a good answer or bad. You get a sense of their reaction to the question and are able to determine how the person reacts under pressure.

Once the phone interviewing has concluded with the resumes that have been sourced from the job boards, or by any other forms of recruiting. It is now time to decide which of the candidates you wish to bring in for a face to face interview. It is during this interview that you have the ability to decide if the candidate will be able to complement the rest of your department. You will now have a better opportunity to gauge the skill level of the candidate and see if he/she will benefit the law firm/company.

During an interview that a fellow recruiter conducted in the past, the candidate was very nervous the entire time. Each question the recruiter asked, he would stutter with his response. The recruiter did his best to make him feel more at ease during the interview, but unfortunately it did not work too well. The one thing to bear in mind when conducting an interview is to make the candidate comfortable and more relaxed. If the person is not comfortable with you, then he/she will be very nervous and probably will not perform to the best of their abilities during the interview. Try to start the interview by asking the candidate questions as simple as "How is the day going?" or "What do you think of the weather today?" Real basic and simple questions tend to make the candidate feel more at ease during the interview. While creating a comfortable atmosphere, you are also creating a rapport with the candidate. Establishing certain rapport will allow you and the candidate to be more comfortable during the interviewing process, and can get rid of those butterflies from his/her stomach.

There are basically five types of questions that a recruiter can ask during an interview. Ask the candidate questions about his/her background in reference to the schooling that he/she received. Ask questions about past/current work experience so that you can receive more detailed information on the tasks and responsibilities the candidate completed. A recruiter may also choose to pose hypothetical work related questions to determine how the candidate will handle him/herself in existing situations. Behavioral

questions will assess the ability of the candidate to respond to situations that the position may present to them. The person that conducted the phone interview may or may not be the same person that conducts the face-to-face interview. The type of questions that were asked during the phone interview can also be asked during the face-to-face.

An interviewer must be fully prepared for the interview. The recruiter must know the open position well and the firm/company's entire benefits package and any incentives the firm/company offers. You will be asked questions about the firm/company and its benefits, so be prepared to answer those types of questions. During the interview you want to get as much information from the candidate as possible. If you are the one that conducts the phone interview, you will have much of it already, but it is always good to ask those questions again as a refresher.

As you are conducting your face to face interview, remember you have the ability to ask more leading questions: "Working on your own doesn't bother you?" You also have the opportunity to ask more open ended questions "Tell me about a time when you had to stick by a decision you had made, even though it made you very unpopular?" "Describe a time you had to work with someone you did not like?" "Can you think of a situation in which a new course of action was needed? What did you do in this situation?" These types of questions will allow you to determine if the candidate can develop new solutions to work-related problems, and also give you the chance to probe into the personality of the candidate. It gives you an idea of how well the candidate can work with other co-workers and his/her decision making abilities.

Continue to keep the interview structured. Asking questions like: "What makes you stand out from others?" "If you stayed with your current firm/company, what would be the next step for you?" Asking these types of questions gives you a better understanding of the type of employee you'd be getting. Remember that you are the one that must be in control of the interview. Even though you want the candidate to be the one doing all the talking, you must be aware that they can not be the one that dictates the interview. That is your responsibility.

What happens if a recruiter does lose control of the interview? You can do one of two things: First the recruiter can stop the person in the middle of the interview and say to them that "we seem to be getting a little off track", and ask them a question that would relate to the position such

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as "In your present position, what standards have you set for doing a good job?" You have turned the focus back to what is at hand and that is the position. The second thing a recruiter can do is to redirect a question that relates to something that they were discussing. It can be as simple as "Now explain to me how that would relate to the position you are applying for?"

Other instances when a recruiter can lose control of the interview are when the candidate begins to go deeper with their personal life. The candidate may begin to discuss topics of an inappropriate manner. The simple solution is to just redirect the focus of the conversation onto something that relates to the position, or even their past work experience. Any personal life information the candidate provides should not be used when making a hiring decision.

Granted, there will be occasions that you will come across a candidate that begins to discuss inappropriate behavior that relates to a past position. While, obviously, you should not hire anyone who would pose a financial, safety or security threat to you, your co-workers, or anyone

else, remember, as you consider them, that, just as in the case of personal information, all candidates are protected under the same non-discrimination laws, and therefore, you must properly weigh and assess the information you receive in this regard. Thus, in this type of situation, it is best to seek the advice of employment counsel before taking any action.

It is important that you ask the same questions to all of the candidates you interview. Doing so will avoid any unfair advantage for one candidate over another. Be sure to always take notes during the interview. All that information you received or jotted down will assist you when making your decision. The more of a revolving door you have with the candidates you hire, the more your law firm/company will gain a reputation for doing so and the more it will be spending to find the right candidate to fill the void of each failure. Be very conscientious with your decision. At the completion of any interview, be sure to let the person know that you will be in touch. It is always good to hand them a business card at the end of the interview.

The process that is laid out is very simple. The key is to be prepared and to be in control. Know the applicable laws. Know the open positions and everything about your law firm/company and be prepared for anything. Be sure to always make the candidate feel comfortable and establish a rapport with the candidate. Recruiters should also reflect on their easiest conversations during their past interviews. In doing so, the recruiter will realize the conversations that made an impression on themselves were the ones that flowed.

You do not want a candidate that will be stuttering and nervous the entire time during the interview. The candidate that you interview can become the worst interview that walks through the door, or they can be the gem that you need. Taking the right steps as a recruiter, will help you to find that needle in a haystack.

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Retention of e-mail: Why bother?

By Michael D. Gifford, Howard & Howard Attorneys, P.C.

Does your firm need a policy for managing retention and preservation of e-mail? YES; even the smallest organizations are wise to invest the time and effort to craft such a policy.

Many lawyers will tell you that "I cannot guarantee that you will not be sued; the best I can do is put you in position to win if you are sued." With changes in federal law regarding the use and exchange of electronic data in lawsuits, which became effective last year, a well thought out plan for managing retention of e-mail, in advance of any suit, is a necessary element of that positioning.

It is also good business.

E-mail has become an accepted way of doing business, communicating with friends and family, and sharing news, political views, recipes and just about any other type of information that can be named. In many work places, personal use of business e-mail is at least tacitly tolerated, if not officially condoned. Most employers are aware of the need for a policy govern-

ing e-mail use and the need to make clear that employees have no expectation of privacy in e-mail sent across the employer's systems.

But many employers, large and small, have still not settled on a policy for retaining e-mail. As attorneys, particularly if we communicate with clients and other counsel by e-mail. This is a glaring weakness. By default, retention decisions are often made by individual employees, resulting in a patchwork of inconsistent retention practices within an organization. If asked, management often cannot concisely describe exactly what the employees are doing or what is being retained. Many attorneys have e-mail routed to an assistant's mail box, which can result in inconsistent retention if a uniform policy is not adopted. Storage space restrictions are often the only limitation. Storage gets cheaper every day, prompting some to simply buy more capacity, rather than analyzing what they are storing and why. Acquiring ever greater storage capacity

avoids the issue rather than addressing it. An archiving solution will enable you to search and locate retained e-mails in the future, but does not address the preliminary question of whether they should even be retained.

One size does not fit all. Any policy must be specifically crafted to fit the organization, rather than simply taking a sample form and hammering or shoe-horning it into place.

On one extreme, some organizations opt to retain everything. For law firms, this may be a safe default, but it is not without problems. On the other, strict policies with short retention periods delete anything not specifically saved by end-users. Legal arguments can and have been made about the value of both approaches. Settling on an approach for your organization should be a business question, rather than a strictly legal consideration. Some organizations, and some types of e-mails, may have specific retention requirements under state or federal law. Any policy

should be reviewed for applicable legal requirements, but the driving concern should be "does this policy benefit the business?" A policy on which employees are not properly trained, or which is not monitored and enforced, may be worse than having no policy at all when it comes to defending that policy in litigation.

What factors should you consider in designing a policy, for yourself or a client?

1. Business connection: Allowing employees reasonable personal use of e-mail does not require retaining such e-mail. Any retained e-mail should, at a minimum, have a connection to the organization's purpose and functions. Clearly personal e-mail, if allowed, should be read and promptly deleted. Generic messages, such as "out of office" notices, inquiries regarding lunch plans, meeting requests and spam or electronic junk mail are similarly subject to deletion.

For attorneys, preservation of client communication in some form is prudent, but question whether it is necessary to keep every e-mail to a client. For example, if you utilize e-mail to forward correspondence as an attachment, unless proof of transmission is essential, do you need to keep both the e-mail and the correspondence?

2. Legal requirements: Some e-mails may be subject to state or federal retention requirements. A "litigation hold," requiring the retention of relevant e-mail and other electronic data, arises when the organization is either in litigation or becomes aware of the strong probability of litigation. Retention requirements may arise without litigation. Sarbanes-Oxley, for example, requires retention of documents, including e-mails, related to an audit or the work of an audit committee.

E-mails created by government employees are often subject to either state or federal record retention requirements. In private workplaces, e-mails may qualify as personnel/payroll records, investment advice, components of a contract or purchase order or other document subject to retention requirements.

3. Burden and cost: At what point does it become more cost effective to retain everything than to implement a retention policy?

4. Ease of implementation: Is the policy designed in a way that the end-users will be able to understand and apply it with an acceptable level of training and support? Is compliance monitoring practical at a reasonable expense?

5. Retention period: Absent end-user intervention for preservation, how long will e-mail be retained? Five years? One year? 90 days? Should different end-users or persons in designated departments or functions have different retention periods?

6. Guidelines for end-user retention: What e-mails should end-users be directed to affirmatively retain? How and where are they retained? At a minimum, e-mails subject to legal requirements should be retained as required by law. E-mails which pertain to a specific project or issue should be retained at least until that matter is concluded. End-users should be given specific guidelines for making these decisions, not simply told to retain anything they consider important. As importantly, clear procedures for retention must be specified. Whether retained e-mails are to be printed and filed as paper, archived, retained electronically to something other than the general e-mail system or retained

in some other manner, a procedure must be specified.

7. Handling attachments: Is an attachment to an e-mail, such as draft document circulated for review, to be retained in the same manner as the e-mail to which it is attached? End-users should be given clear instruction on standards for preservation of such attachments and whether they are considered, for retention purposes, part of the e-mail or as a separate, independent document.

Consideration of these factors should reveal that generic, sample policies are insufficient, particularly for law firms. A policy that fails to consider the specifics of the organization is doomed to ultimate failure. Drafting a proper retention plan will often require input from management, IT/IS, legal and document retention functions. Each has a role to play in crafting a policy that benefits and supports your organization's goals and contributes to your success.

Michael D. Gifford has practiced labor and employment law and litigation in Central Illinois for over 20 years. Mr. Gifford also advises and consults on matters involving discovery, production and retention of electronically stored information, commonly called eDiscovery, and has coordinated defense strategies and compliance with eDiscovery in several federal litigations since adoption of the new federal rules. Mr. Gifford is a frequent speaker before legal groups and in human resources and management seminars, addressing topics including labor and employment topics and eDiscovery, and has been recognized as a Leading Lawyer in management employment representation.

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Electronic discovery: Pay now or pay later!

By Alan Pearlman, Esq., "The Electronic Lawyer"™

Editor's note: This article previously appeared in IICLE Flash Points and in American Lawyer Media's Legal Tech Newsletter in 2008.

Electronic communication is taking over the business world. The days of paper documents are becoming a faint memory and being

replaced with e-mail, instant messaging, video and VoIP. Although these tools make our everyday lives easier, they have the potential to become a serious liability for your company if not managed properly. In Illinois please refer to ILCS 14012 (c).

Take the famous case of *Coleman v. Morgan Stanley*. In 2004, Coleman (Parent) Holdings sued Morgan Stanley

for fraud in regards to CPH's sale of its stock to Sunbeam Corporation. Whether or not Morgan Stanley had known about Sunbeam's fraudulent plan was central to the case. Morgan Stanley was ordered to reproduce crucial e-mails and when they couldn't do so, CPH was awarded \$1.58 billion in total damages.

Advanced Micro Devices, Inc. v. Intel

Corporation is a more recent example of e-discovery disaster. AMD accused Intel of not disabling the "auto-delete" function on their computer system resulting in the disappearance of important company e-mails. When Intel was asked to produce evidence of e-mail preservation, they realized their backup system had failed as well. Now Intel's integrity is being questioned and the missing e-mails may be used as negative evidence.

So why are companies taking so much risk when it comes to electronic communication? One reason is that people don't realize the importance of archiving electronic communication until it's too late. You wouldn't drive a car without car insurance would you? Message archiving is the same concept: it acts as insurance for your firm and protects your firm from the unknown. This goes for your clients as well.

When it comes to finding the right solution for your firm, certain key features are a must. The solution must be compliant with regulations such as the new amendments that were added to the Federal Rules of Civil Procedure about electronically stored information. This means your solution should be able to archive, search and retrieve all e-mails in a timely matter. Had Morgan Stanley used

an e-mail archiving solution, they would have been able to submit their discovery in time.

On the technical side, an e-mail archiving solution should aid in storage management. Solutions will provide more than 70% reduction in disk storage requirement for e-mail. Because archives will utilize single instance storage for e-mail attachments, it saves space and also costs for the company.

Archiving solutions such as Privacy Networks (PNI) PrivacyVault meet compliance requirements and also serves as a functional tool for your company. Privacy Networks solutions are based on the patent pending Intelligent Content Engine (ICE), designed from the ground up to incorporate all forms of digital content. PNI's core proposition is the compelling need for a comprehensive Corporate Digital Asset Management Solution, not just e-mail or IM, but a central data that provides rapid access to any digital information in a simple, controlled and secure fashion.

Imagine using key words to search digital phone logs to find a phone call that occurred two years ago, rather than listening to thousands of hours of recorded conversation. Imagine the value added, if a Partner could efficiently find and compare

the key words used during a Partner's phone conversations to the words used by less experienced Associates. Imagine being able to perform secure "real time" Google like searches across all digital content; e-mail, documents, instant messages, voice, and video for e-Discovery or other business purposes.

Privacy Networks provides enterprise-level archive solutions with midmarket affordability and ease-of-use. Privacy Networks provides companies with management tools that not only protect against threats and annoyances but also safely store all of your content in a secure archive. Just as search engines turned the internet into a powerful information tool, the Privacy Networks archive solution provides your users with a fast, intuitive search and retrieval engine for all your e-mail. Privacy Networks can be deployed as an appliance, hosted service or stand-alone enterprise software.

With so many benefits, it is amazing why law firms big and small don't fit archiving into their budgets. It may be pricey to implement but in the long-run, archiving solutions will save money, time, and possibly you, and your client from damaging litigation. We should learn from the mistakes that other businesses have already made and prepare for the future!

How good is your e-mail evidence ?...RPost® Registered E-Mail® gives you the courtroom edge!

By Alan Pearlman, "The Electronic Lawyer"™

Editor's note: This article previously appeared in IICLE Flash Points and in American Lawyer Media's Legal Tech Newsletter in 2008.

Today e-mail is as second nature to most attorneys and law offices as sending a letter or fax. Hardly anyone ever thinks twice about sending, receiving or even thinking about the content they put into the average e-mail message. Most even think a step further and really think that an e-mail is just like a conversation, i.e., once it's over the conversation ceases to exist.

However, as most attorneys will tell you, an e-mail is a discoverable document that is legal evidence, to be used at any

trial and for any discoverable purpose. The thing that most of us seem to forget is that e-mail, unlike our conversation, lives on in time and if not kept in the proper perspective, the topic of the e-mail may be of such importance to a case or cause the its valuable content and facts become critical to our proofs in a matter. As a practitioner of Family Law, I can attest to the fact that a case can be won or lost when challenges are made to the truth and veracity of the statements in an e-mail or even to a time stamp on a document. Many a spouse has been faced with the explanation of the suspect e-mail in a court of law!

Attorneys should be aware that on a day to day basis, business, spouses and other lawyers continue to execute e-mails

without any protections and without a proper retention system of records to avert a tragic mistake.

Think for a moment how does one protect itself from an original e-mail that was misquoted; or one that was never read or received in the first place? Most say "well I ask for a receipt – not good enough – since a receipt can be denied to the sender! What about actual challenges to the time and sending of the e-mail? The list goes on and on, but the answers seem to elude you! Just remember that with just a few simple mouse clicks an original e-mail can be changed and represented by opposing counsel to be the original document! The protection of your evidence and legal document is more than just mildly critical

to your trial and situation, and the recent court decisions on the matter have proven to be such that you MUST have a reliable E-Business system to keep proper records of these e-mails, no excuses!

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Virtualization and law office computer systems

By Alan Pearlman, Esq., "The Electronic Lawyer"™

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Virtualization has been getting a significant amount of coverage in the IT press. Open almost any IT trade publication in the last six months and there are numerous articles about Virtualization. It brings to mind the movie "Multiplicity" or the scientists that are cur-

rently involved in "cloning". So what is the entire buzz about? And what does it mean to us, the legal community?

The fact of the matter is virtualization is a 20-year-old technology/concept whose roots came from mainframe systems that has moved into x86 (PC, server) platforms. Wikipedia describes the concept of virtualizing servers as "a method of partitioning a physical server computer into multiple servers such that each has the appearance and capabilities of running on its own

dedicated machine."

Each server is compartmentalized such that it is completely independent of any other virtual server that also resides on that physical hardware. Each virtual server can run its own operating system (i.e. Windows NT, 2000, 2003, 2007, Linux, Novell Netware, etc.) and each server is completely independent of the other servers on the physical server. Several of the software vendors have taken it a step further enabling portability, movement

from one physical device to another, load balancing (think of it as clustering on the fly) and other features that make it a very compelling technology.

So how can virtualization benefit me you ask yourself? That becomes an excellent question that we will generalize utilizing the approximate size of law firm that we are dealing with. We will discuss how virtualization technology can impact small firms (sole attorney to several attorneys - no server to five servers), medium size firms (10-50 attorneys plus support staff-five to 25 servers), and large firms (50 to 500 attorneys, multiple offices and 25 to 100s of servers).

Small Law Firms

What can virtualization do for us? Is it cost effective for our size firm? These two questions are answered with the words - a lot and yes definitely! Virtualization can be a cornerstone of a solid Business Continuity and disaster recovery plan. Like most small businesses, you probably don't have the resources to replicate all your systems, With virtualization you are now enabled to do so.

Virtualization is kind of like the early days of the World Wide Web...it is a tool that enables you to do the same things that larger enterprises do for their busi-

ness. Test systems, Replication, Snapshots, Quick recovery, and Mobility. On one of the PCs or servers, load one of the virtualization software applications and use it to create:

- A virtual laptop/desktop. If your PC crashes, is stolen, or somehow meets its demise, you can quickly recover from the virtual image loaded on an external hard drive, secondary PC or server.
- A replication target for your main application(s) or systems
- Test system - test patches, new applications, configuration changes
- Hardware upgrade - made much simpler and faster
- Cost of virtualization software: FREE to \$1,000s

Medium Law Firms

Jeff McDaniel, VP of Technology at DSN Group, commented that mid-tier business stand to benefit tremendously using virtualization technology. "One of the main benefits is that it enables the IT staff to do complex initiatives or tasks without adding staff. Building a solid DR plan, building a HA (high availability) environment, load balancing, automated failover and creating a test environment come to mind."

And all at price points that make payback typically within a year.

Larger or Enterprise Law Firms

For this high end group of players it really changes the whole game. You can go from managing hardware to managing data. If you think about that, that is very big. We can reduce the footprint of the data center, data center cooling, power, power conditioning, and number of servers managed.

One of the industry analysts said that 24% of servers are virtualized today and the next step is virtualizing desktops... and that may prove to have a larger impact on cost reduction than server virtualization.

Virtualization is a technology that does present some added variables and complexity, but provides features and tools that change the status quo. It is a technology that the legal industry will surely embrace and use to better our service to our ultimate consumer...the client. In my opinion, I think that each person in the law firm who has a say in the future of the firms technologies should definitely look into the process of Virtualization, with an eye towards how it can better serve the firm in the years to come.

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