

A Real-World Example of the Value of Paperless Law Practice

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If global warming has taught us anything, it is that we will face increasing natural disasters - storms, floods, forest fires, and other devastating weather events appear almost daily on the news. In St. Louis, record rainfall flooded the metro area in July 2022. And these natural disasters collide with an attorney's obligation to maintain client files.

Attorneys, of course, have an obligation to maintain client files, cover to cover, for years after the representation ends. Many attorneys will store those physical closed files in an external storage facility. Now imagine that facility is submerged in flood waters, rotting and molding those paper files beyond salvage. That misfortune struck one Missouri attorney.

In a recent Missouri informal ethics opinion, Advisory Opinion No. 2022-10, a Missouri attorney inquired about his obligations when his paper files were destroyed in a flood, without an electronic copy of those files.

The answer was unsurprising but daunting: the attorney had an obligation to maintain client files in accordance with ethical rule 4-1.22. The attorney was required to assist clients and former clients to the extent reasonably practicable, and the opinion recommended the assistance of a disaster-recovery professional to dispose of client materials confidentially.

The opinion also advised contacting the attorney's malpractice carrier for additional guidance - words no attorney wants to hear.

A paperless practice could have saved this attorney the headache. In a properly run paperless system, most or all documents would have been stored electronically. The law firm would have stored - and backed up - those electronic files to multiple places, including offsite storage. Commercial cloud-storage providers have data centers in multiple locations, reducing to near-zero the risk of catastrophic data loss.

And paperless client files have additional benefits for attorneys. They are cheaper to maintain and store long-term - cloud storage is much cheaper than commercial real estate. And electronic files can be available anywhere an attorney might work. No more dragging around physical files, with the attendant risk of loss or damage.

All attorneys should consider whether they can, and should, go paperless. In doing so, attorneys should consider storage, backups, encryption, and other security measures (such a [strong, secure, passwords](#)). Numerous commercial vendors offer solutions for firms of all sizes. And transitioning to paperless might just save you ethical headaches during the next natural disaster.

Missouri Informal Advisory Opinion No. 2022-10 available at

https://mobar.org/site/Lawyer_Resources/Legal_Ethics_Opinions/site/content/Lawyer-Resources/Legal_Ethics_Opinions.aspx?hkey=06b5595d-c0b3-4d8c-bf7d-dbf770a948b4.