



DOCUMENT MANAGEMENT SURVEY

prepared for

LAW FIRM GAMMA

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EXECUTIVE SUMMARY

Law Firm Gamma

prepared for: **Law Firm Gamma - Managing Partner**
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report topic: **Document Management: Overview of Issues & Possible Remedies**

Profit Coaching Inc. has completed its initial survey of the areas of interest as directed by the Managing Partner on January 09, 20XX. We want to take this opportunity to thank the LFG team that helped us compile the necessary information for this report.

This report highlights significant process improvements which could yield LFG an additional \$7,000,000 - \$37,000,000 over the next five years.

Volume Reduction of Documents in Storage

Key Issue/Remedies:

- Current supplier assesses punitive charges for removing documents from its care.
- Firm should renegotiate its contract for more favorable terms.
- Firm should assess risk associated with current supplier re: misplaced files.

Current Document Management Methods at LFG

Key Issues

- Elements of Firm's culture impact document management, and vice versa.
- Significant high-paid hours are devoted to filing tasks that fall below competency level.
- Significant high-paid hours are lost to searching for documents and files.
- Current practices place Cost & Use burdens on revenue-generating and common spaces.

Future Document Management Options

Key Issues/Remedies

- Implementing a Document Collection Policy can **save \$106,000/yr** in labor costs alone.
- Implementing a Document Retention Policy can help stabilize storage costs.
- Installing and implementing a **Hi-Density Mobile Storage system** onsite can **save the Firm over \$8,000,000 in operating expenses -within 5 years- through better efficiencies**, and free up occupied space to **make room for gross revenue growth of up to \$37,000,000.**
- HDMS can be the foundation for the Firm's gradual migration to e-document workflow.
- Implementing HDMS can support desirable aspects of the Firm's culture.

Ancillary Issues

Key Issues/Remedies:

- Document management standards, policy & procedure manual would accelerate every new employee's orientation as well as their confidence and comfort level.
- Attorneys need education and reassurance of IT's effectiveness re: e-document security & backup.
- Changing location for internal meetings can improve efficiency and improve space use.
- Written job descriptions can improve the state of mind and effectiveness of support staff.
- Training the assistants to handle mail from the courts, etc. will save attorneys significant time that they currently devote to calendar management.

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I. WHAT ARE WAYS TO REDUCE THE COST AND VOLUME OF DOCUMENTS CURRENTLY STORED AT IRON MOUNTAIN?

Several possibilities exist:

- i) Consolidate and edit the contents of boxes currently in storage.
- ii) Scan documents and retain electronic copies.
- iii) Negotiate better rates.
- iv) Change Supplier.

BOX ANNUAL STORAGE		
Boxes on file @ Iron Mtn	22172	
Cost per CF per month		\$0.20
Box dimensions in CF		1.2
Storage Cost/box/month		\$0.24
Storage Cost/box/year		\$2.88
Storage Total/month		\$5,321.28
Storage Total/year		\$63,855.36
New Deposit Cost / CF		\$1.25
New Box Deposits in 20XX		998
New Deposits in CF		1198
New Deposits Total Cost in 20XX		\$1,497.00
Cost of Storage + New Deposits 20XX		\$65,352.36

Table 1

i) Consolidate and edit the contents of boxes currently in storage.

In 20XX, Partner Y produced a memorandum that addressed the issues surrounding this possibility. We concur with his assessment of the cost of oversight for this solution. The files offsite are probably in such a state that it would require a trained eye and mind to sort through the contents and discard everything but the most essential elements.

On top of this, Iron Mountain is the only company of its kind we are aware of that assesses a fee for “permanent removal” of boxes or files belonging to their clients that are removed from their care, whether through consolidation, destruction or account closing.

i) Consolidate and edit the contents of boxes currently in storage cont'd.

In 20XX, Partner Y estimated that there are 1,731 boxes containing files that are older than 10 years. Table 2 shows possible cost of consolidating these boxes only:

BOX CONSOLIDATION COST		
Box dimensions in CF		1.2
Boxes to be Consolidated		1,731
Outsource Paralegal \$/hr		\$25.00
Boxes/hr Consolidated		3
# of labor hours		577
Total Cost Paralegal		\$14,425.00
Boxes Removed	30%	519
Removed Boxes in CF		623
Removal fee / CF		\$5.57
Total Cost of Removal		\$3,471.00
Total Cost Paralegal + Removal		\$17,896.00
Annual Storage Cost reduced by		\$1,500.00

Table 2

Cost of permanent removal should be an important consideration going forward. Essentially, cost of removal incurs an **off balance sheet liability of about \$5.50** for every new box sent to storage (See Appendix A):

BOX/FILE PERMANENT REMOVAL ("OUT") COST		
Box dimensions in CF		1.2
Boxes in Storage		22,172
Boxes Removed	100%	22,172
Removed Boxes in CF		26,606
Removal fee / CF		\$5.48
Total Cost of Removal		\$145,803.07

Table 3

ii) Scan documents and retain electronic copies.

One of the lowest prices for scanning is \$0.10 per side. Assuming a conservative estimate of 1100 single sided sheets per box stored (1500 is average for 10" x 12" x 15" box), scanning costs alone would be \$2,448,920.00. In some cases, database development and management are included, but the cost per sheet scanned is higher, as high as \$0.25 per side.

Including Iron Mountain's permanent removal fee, the total estimate will come to about \$2.6MM.

iii) Negotiate Better Rates.

LFG should examine the terms of their contract with Iron Mountain. Usually, document storage companies have contracts with a clause for auto-renewal, and a period prior to the renewal date is specified for raising objections to the existing or proposed contract terms.

Asking Iron Mountain to calculate LFG's "out" costs prior to the negotiation period and contract renewal may give LFG leverage to negotiate lower storage and delivery rates. The permanent removal fees should be questioned and possibly negotiated down to some reasonable rate for simple bookkeeping or accounting closing, palletizing boxes, and shipping.

Lower or no removal fees would also make a document retention policy more cost effective.

iv) Change Supplier.

City X is a competitive market for document storage companies, many of whom have specific programs for helping Iron Mountain clients manage their contracts and defray their "out" costs. Some will offer overall storage and delivery charges about 25% less than Iron Mountain. Most of these competitors appear to be very reliable and offer similar services like online lookup of stored materials, document scanning and destruction. Based on what often seems to be happening at Iron Mountain, some of these competitors offer "never lost" guarantees for boxes and records.

It should be noted that one of the common objections we encountered in our survey to sending boxes or files to storage was the fear that they "may be lost". It's not known if this is:

- a) a legitimate objection based on experience in the Firm, or
- b) a rationalization for avoiding the tedious task of organizing files and boxes for storage.

If the answer is (a) there may be precedent within the firm. Records Manager keeps very good notes of every box and its contents, and s/he has had an experience where Iron Mountain claimed the file s/he requested didn't exist in their facility. S/he was able to prove them wrong and Iron Mountain eventually procured the file. Perhaps this kind of anecdote contributes to a mindset and practice that contributes to space use challenges.

If the answer is (b), then it may be that file sorting and closing falls below the competency level and optimum use of time for the people performing this kind of work. If there is no enjoyment in the task, or if the task assumes low priority, it is because people naturally put tasks first that best fit their competency level and are perceived to be most profitable.

Even if the answer lies somewhere between (a) and (b), it's completely unacceptable for a document storage company to lose or misplace files. If this is a commonly held perception within the Firm, then this can be a barrier to good document lifecycle maintenance going forward. If the Firm has experienced any inability of Iron Mountain to locate their files or boxes, then the security of all their documents should be immediately called into question and carefully audited.

II. WHAT ISSUES SHOULD BE CONSIDERED DURING DOCUMENT MANAGEMENT?

Consider the Firm's culture and the following issues and how they influence one another with:

- i) Open Matter Document Management
- ii) Document Space Utilization
- iii) Use of Technology
- iv) Closed Matter Document Cost
- v) More profitable Operations through Document Management

The Firm's Culture

One aspect of the Firm's culture is the upholding of a "way of life" characterized by a less formal work atmosphere, less authoritarian management, and encouragement to greater enjoyment in the practice of law. Several principles appear to guide the day-to-day manifestation of that culture:

- Attorney **autonomy**, and varying workstyles.
- Collegial **co-operation**, guidance and mutual respect among attorneys.
- High standards of **ethics** in the practice of law.
- **Quantitative** measurement of activities is not a priority.

Upholding these principles brings its own pressure to bear on the Firm's time management and document management practices. It's presumed that the success of any solution will depend upon its ability to support the Firm's culture, and its ability to reduce any negative impact the culture and document management practices might have upon one another.

Figure 1 below shows how the 4 principles of the culture and document management practices impact one another:

Culture:	Autonomy	Co Operation	Ethics	No Quantification
Open Matter Document Mgmt	Multiple taxonomies and info management systems	Little standardization or co-operation	Confidentiality easily compromised	Inefficient use of competencies of personnel
Space Utilization in Document Mgmt	Free colonization of common space for storage	Veneer of civility and possibly dormant resentment	Cost distribution does not reflect actual use	No regulation of common space use
Technology Use in Document Mgmt	Multiple taxonomies in e-doc management	Little standardization or co-operation	Minimal off site document use	No measurement of (in)efficiencies
Closed Matter Document Mgmt	No standardization of closing boxes: material and storage costs	Little standardization or co-operation	No document retention policy	Inefficient use of personnel competencies
Profitability of Operations through Document Mgmt - Now	Inefficiencies impact individual and collective profitability	Avoidance masked as respect fosters paralysis & inefficiencies	Dissonance undermines culture	Mgmt cannot form a clear picture of costs of current practices
Profitability of Operations through Document Mgmt - Future	Profitable document mgmt can support autonomy.	Principle supports co-operation in development & adoption of profitable methods	Dissonance easily resolved thru adoption of profitable methods	Profitable doc mgmt can also be measured by how "good" attorneys feel about it.

= Culture or Practice negatively impact one another
 = Culture or Practice positively impact one another

i) Open Matter Document Management – Culture & Impact

AUTONOMY

Fosters multiple methods of file management, file naming, and document circulation according to individual attorney preference. Assistants, paralegals and associates must often learn two or more attorneys' methods. While this may work on a small scale, it can create serious challenges to time and document management as a firm wide practice where multiple attorneys, paralegals & assistants co-operate on projects.

“Searching for missing files and documents” is a common theme of frustration among the firm's attorneys, paralegals and assistants. Tabulated results of the assistants' and associates' questionnaires, and a poll of time spent searching for files bear out this observation. It is our experience that the time stated is usually at least 1/3 less than actually spent. (See Appendix B, C)

AUTONOMY impacts:

COLLEGIAL CO-OPERATION AND RESPECT

Respect for other attorneys may suppress willingness to appear critical of another attorney's work practices, file management, etc. This may hinder co-operative document management solutions that would increase the efficiency and enjoyment on shared projects.

HIGH ETHICAL STANDARDS

Uncovered, untracked documents flowing throughout the firm leave matters open to risk of compromise of confidentiality. Trust among colleagues is to be desired, but it should not replace diligence in avoiding unnecessary risk from unintended disclosure.

NO QUANTIFICATION OF ACTIVITY

Attorneys cannot form an impartial picture of how their autonomous document management practices affect the attitudes and time that they, their assistants, associates and paralegals spend on a matter. This can trickle down into inaccurate billing, or inaccurate allocation of time, or mis-allocation of personnel competencies.

The assistants and associates' questionnaires highlight issues of happiness, time, and competency mis-allocation related to document handling including: filing in general, searching for misplaced documents, printing and filing emails in multiple locations, waiting for printers and copiers. (See appendix B, C)

ii) Space Utilization in Document Management – Culture & Impact

AUTONOMY

Fosters a kind of free-wheeling colonization of unoccupied space. Attorney's individual preference to retain documents onsite creates buildup over time. An overflow of document boxes into every unoccupied square foot is the result. In some cases, common work areas have been completely taken over by boxes to the point where there are tacit "space wars" within the area: one attorney's boxes are displaced and overwhelmed by another attorney's more voluminous matter and then no space remains to do the actual work.

[Floor Maps \(removed for confidentiality\)](#) show the current conversion of revenue-generating floor space to revenue-negative floor space through territorial colonization.

AUTONOMY impacts:

COLLEGIAL CO-OPERATION AND RESPECT

A veneer of civility may mask frustrations and resentments that arise from territorial disputes over common or unoccupied space. Rank and class among attorneys may hinder open discussion over use of common and unoccupied space and territorial "rights".

A quote from an interview: "*Nobody* is going to tell a partner he has to get his paralegal in on the weekend to clean up his boxes". Responses from the Associates' questionnaire bear out these observations. ([See appendix C](#))

HIGH ETHICAL STANDARDS

The cost distribution model for sharing overhead does not reflect the actual resources used and territory occupied by each attorney and his documents. This can contribute to a perception of inequity, which may be tolerated because of other demands of the culture. However, the dissonance between "what's fair" and "what's real" can weaken the culture's ethical fabric.

NO QUANTIFICATION OF ACTIVITY

Reluctance to quantify both revenue-producing activity and revenue-producing potential in common and unoccupied spaces can contribute to a misapprehension of the true cost of using this space for storage. It also inhibits the regulation of the fair and proper use of these common areas for workrooms and the like.

iii) Technology Utilization in Document Management – Culture & Impact

AUTONOMY

As with physical document management, it fosters multiple methods of document naming and classification. Different taxonomies make it difficult for assistants to share tasks on co-operative projects as they search for relevant documents. Over time, search results in the document database can become less and less meaningful as more files with similar names are returned through a query. A query that returns 200 documents is virtually useless from a time-saving perspective.

AUTONOMY impacts:

COLLEGIAL CO-OPERATION AND RESPECT

Respect for other attorneys may suppress willingness to appear critical of another attorney's work practices, file management, etc. This may hinder co-operative document naming conventions and other solutions that would increase the joy and efficiency on shared projects.

HIGH ETHICAL STANDARDS

The Firm has taken admirable precaution in its use of technology to manage documents and minimize the risk of confidentiality compromise outside the Firm. It appears that almost all electronically generated documents are created, edited and distributed through the Firm's network. Assistants' and Associates' questionnaire responses bear out this observation (See Appendix B, C). This practice significantly reduces risk of security breach via home computer, laptop, or other PDA.

Redundant backup and storage systems, de-duping of email attachments, and virus scanning have increased document security and integrity significantly.

NO QUANTIFICATION OF ACTIVITY

Attorneys cannot form an impartial picture of how their autonomous document management practices affect the attitudes and the time that they, their assistants, associates and paralegals spend on a matter. This is especially evident in the management of email. Email management is a common theme of frustration that runs through all assistants' and associates' questionnaires (See Appendix B, C).

iv) Closed Matter Document Management – Culture & Impact

AUTONOMY

Although a set of rough guidelines exists for closing matters (eg: no binders or unused portions of legal pads should be sent to storage), it is up to each attorney which portions of the matter should be preserved and which should be discarded.

Varying practices in document collection and identification through the life of a matter make it difficult for file closing to be performed by trustworthy, lower-paid personnel. Every attorney's individual preferences could be accommodated by a lower paid file manager's assistant if some standards for document identification were in place.

Attorney's personal preferences and beliefs about the reference value of recently closed matters influence the pace at which they are sent to storage. A commonly held perception is "the moment I send it off, I need to refer to it", or "if I send it off, it might be lost or too late in its return when I need it". Whether these are actual truths or rationalizations for avoiding the tedium of filing (a task that falls well below an attorney's competency level), evidence of their power is in the number of boxes currently held onsite: ± 6000.

Some of these boxes have been recalled from storage, and are still being assessed a storage fee, but have been onsite at LFG for many months.

COLLEGIAL CO-OPERATION AND RESPECT

Same set of concerns as over Space Utilization.

HIGH ETHICAL STANDARDS

The Firm does not have a Document Retention Policy in place. A well thought out and implemented policy protects the Firm and its Clients, and assists in the efficient management of onsite and offsite storage costs by regulating document flow through, and out of facilities.

Lack of a Document Retention Policy can do nothing but support increasing annual costs of onsite and offsite document warehousing. It can possibly expose the Firm to risk through Discovery. A uniformly enforced Retention Policy is the only kind recognized by the Court.

NO QUANTIFICATION OF ACTIVITY

Attorneys do not get an impartial view of the true cost of their own, and their assistants' or paralegals' moods and time spent in file sorting, indexing and closing.

v) Profitability of Operations through Document Management – Culture & Impact

AUTONOMY

- MINUS:** Small inefficiencies and inconsistencies can have a sizeable negative impact on individual and collective enjoyment, productivity and profitability.
- PLUS:** Small changes in efficiency and behavior can have equally large positive impacts.
- CONCL:** More profitable document management does not need to compromise attorney autonomy. Better solutions support individual methods and the common need for good time management.

COLLEGIAL CO-OPERATION AND RESPECT

- MINUS:** Avoidance masked as respect fosters paralysis, resentment and inefficiencies.
- PLUS:** Co-operation extended to the agreement on, and adoption of, standard document collection practices gives everyone “room to breathe”, facilitates a better use of space and resources, and provides an impartial code to appeal to in the event of conflict.
- CONCL:** This cherished aspect of the culture naturally lends itself to co-operation in finding solutions that can benefit all.

HIGH ETHICAL STANDARDS

- MINUS:** Dissonance between publicly stated & privately held ideals and actual practice erodes the ethical fabric of the Firm. Inefficiencies in document / time management can open attorneys, associates and paralegals to feelings of vulnerability and temptation to “hide” unproductive time in various ways.
- PLUS:** Document management practices that support a more effective, productive and profitable use of all parties’ competencies makes it easy to be ethical. A good Document Retention Policy upholds the Firm’s code of ethics and protects the Client and attorney. Document lifecycle security protects the Client and attorney.
- CONCL:** Most dissonances can be easily resolved through the use of better tools and improvements in document management methods.

NO QUANTIFICATION OF ACTIVITY

- MINUS:** Makes it difficult to assess the true cost or true contribution of any practice or behavior.
- PLUS:** Protects the Firm against certain negative effects of internal competition.
- CONCL:** In the absence of any objective quantification, the success of a profitable Document Management system should be able to be measured by “how good” attorneys feel when participating in its adoption and “how well” they feel about using it.

III. WHAT ARE WAYS TO MANAGE DOCUMENTS AT PRESENT AND IN THE FUTURE SO AS TO MINIMIZE STORAGE COST AND VOLUME OVER TIME, WHILE MAINTAINING STANDARDS AND DUTIES OF CARE FOR THE CLIENT, AND CAUSE AS LITTLE DISRUPTION AS POSSIBLE TO ATTORNEYS' CURRENT WORK PRACTICES.

Options to consider:

- i) Adopt a Document Collection Policy
- ii) Adopt a Document Retention Policy
- iii) Use High Density Mobile Storage Systems
- iv) Hybrid Approach: High Density Mobile Storage + E-Document Retention
- v) Electronic Document Workflow

As previously stated, it's presumed that the success of any solution will depend upon its ability to support the Firm's culture, and its ability to reduce the negative impact of the culture and current practices upon one another.

Cultural "fit", cost of implementation and return on investment are of primary importance. Figure 2 below gives a brief overview of the "fit" of the options.

Culture:	Autonomy	Co Operation	Ethics	No Quantification
Document Collection Policy	Doc classification can fit all attorney preferences thru use of sub files	All attorneys have say in main file taxonomy	Supports a Doc Retention Policy	Requires only occasional review of exceptions
Document Retention Policy	Every attorney's retention prefs can be accommodated	Does not conflict with the principle.	Protects Attorneys and Clients	Any cost study can be done by the Records Mgr.
Hi Density Mobile Storage (HDMS)	With Doc. collection & retention policies, accommodates to most attorney's current practices	Supports much smoother and more efficient document flows	Improves document security	Payback in less than One Yr, plus 5yr write-down on capital equipment
Hybrid Approach: Hi-Density Mobile for Open and E-Doc Mgmt for closed Matters	Enjoy advantages of HDMS up front plus convenient doc recall after close of matter.	E-doc database should be built to mirror physical system for easy collaboration	Stored matter folders need only contain wet ink docs and permanent files	HDMS ROI covers costs of development of database and scanning equip. purchase later on.
Electronic Document Workflow	Current solutions may force conformity and restrict taxonomies. Requires major shift in viewpoint and practice. Ahead of Courts. Still requires paper & space solutions.	Few attorneys would adopt system or collaborate through it. Court should drive the pace of adoption.	Firm's IT mgmt is abreast of security challenges and able to support implementation.	Without universal adoption, migration may not pay for itself in write-down period of 2 yrs.

= Culture or Practice negatively impact one another
 = Culture or Practice positively impact one another
 = Culture or Practice neutral impact

i) Adopt a Document Collection Policy.

Represents the least cost, and is the least difficult option. Standards applied to document collection and labeling throughout the life of a matter can ease burdens of filing. Standard document labeling can simplify file closing to the point where it may be performed by lower paid personnel. Refer to [Appendix D](#) for summary of ARMA suggested guidelines for implementing a Document Collection Policy.

By itself, a document collection policy will probably not ease the current burden on space use and all time lost to searching for documents, so cost savings are calculated strictly in terms of file / box closing hours. Refer to [Appendix F](#) for tables. **Cost savings could amount to \$106,000/yr** if duties were reallocated to trained lower-paid personnel currently employed for other tasks.

CULTURAL “FIT”:

AUTONOMY

All attorneys can have a say in the classification and naming of major files and sub files. Sub files can be created and named according to individual attorney preference ad infinitum. Refer to [Appendix E](#) for basic taxonomy guidelines summarized from the *ABA Law Library Journal*.

Attorneys do not have to change their own private work process. Each can have his/her own checklist for file / box closing. Attorney authorizations, checks and accountability can be built into the process so that they may verify the work of the File Manager or Assistant.

COLLEGIAL CO-OPERATION AND RESPECT

Policy can enhance co-operation and respect by setting agreed-upon standards for document identification. This would go a good way toward helping co-operative teams work together with more enjoyment and less confusion and time lost.

Better management of documents and file closing can somewhat ease space tensions.

HIGH ETHICAL STANDARDS

A functioning Document Collection Policy supports a Document Retention Policy.

NO QUANTIFICATION OF ACTIVITY

The process should maintain itself if checks and accountability are built in from the outset, file management personnel is trained in file closing, and attorneys are sufficiently assured of file integrity.

ii) Adopt a Document Retention Policy.

Unless the Firm has a workable plan for the disposition of aged documents, the cost of document warehousing will continue to escalate as the Firm and/or volume of paper documents grows.

Attorneys often advise their commercial clients to adopt and consistently enforce document retention policies in compliance with Sarbanes-Oxley. However, when it comes to their own records, attorneys can think of many reasons to avoid having to dispose of their own aged records. Attorneys must always be on guard against the “what if” contingency, and an abundance of caution is preferable to insufficient caution. This eventually results in costly repositories of decaying paper, which could someday be a liability in discovery, and thus an insurance policy dearly bought.

A well structured document retention policy does three things:

1. it protects the Client’s interests,
2. it provides attorneys with assurance and control,
3. it helps hold or slow down the increase in document storage costs.

The document retention policy, and options for document disposition should be introduced to the Client with the engagement agreement. Disposition of documents can be executed through return to Client or destruction, and should be in compliance with the agreement. Measures for review, authorization and modification of terms should be built into the policy and Client agreement.

A well functioning document retention policy is a critical component in the cycle of documents into, through and out of the Firm’s care. Refer to [Appendix G](#) for a summary of ARMA’s suggested adoption procedures.

It’s worthwhile to note that Partner Y has already done a great deal of the work outlined in the ARMA suggestions steps 7 and 8.

If permanent file/box removal penalties can be reduced or eliminated, then the maintenance of a document retention policy, supported by a document collection policy, should be cost / revenue neutral.

CULTURAL “FIT”:

AUTONOMY

Attorneys can collaborate in the drafting of the retention policy. Steps for individual review and disposition authorization can be negotiated and agreed upon.

Attorneys do not have to change their own private work process. Mechanism for document review and disposition should rest with the Records Manager, and be triggered by her/his calendar.

COLLEGIAL CO-OPERATION AND RESPECT

Policy does not conflict with the principle.

CULTURAL “FIT” (cont’d):

HIGH ETHICAL STANDARDS

Protects the client first and foremost. Protects attorneys and clients when it is uniformly enforced.

NO QUANTIFICATION OF ACTIVITY

The process should maintain itself if checks and accountability are built in from the outset, file management personnel is trained in file closing, and attorneys are sufficiently assured of file integrity.

iii) Introduce High Density Mobile Storage Systems

The Firm's culture is inclined towards the management of large volumes of physical documents. Attorneys are most comfortable with this modality, and it conforms to the broader universe of the Court system within which they operate. The Courts still require physical documentary submission and evidence. Contract law still requires signatures on paper. These are not likely to change to a 100% paperless workflow anytime soon, though this is probably part of the Court's vision for the future. Federal Courts already accept electronic filing and e-signatures on documents, but this doesn't ease the burden on the attorney to present physical documents in the courtroom.

Overall, the Firm's emphasis remains on paper, and solutions should first address the issues related to paper document management. Current document management practices and preferences for onsite document retention put stress on space use, and time. These issues need to be addressed no matter what.

One of the commonest expressions of frustration for assistants, attorneys and paralegals is their inability to locate documents and files. (see [Appendix B, C](#)). We polled assistants and paralegals to get an average estimate of time spent "on the hunt", and the average times were 100 minutes/week for assistants and 200 minutes/week for paralegals. We think this estimate is probably on the conservative side, because this is not productive time, and subordinates may be reluctant to estimate a figure that reflects poorly on themselves or their bosses. It can also be conservative in that it may primarily reflect the time spent looking for two or three files that have migrated out of the practice area, and may not include smaller daily increments within the practice area.

If you were to ask us: "what other type of professional association has a similar business model, has multiple practitioners and assistants with different work styles, manages similarly amounts of paper, has similar obligations for confidentiality, and experiences daily circulation of documents and files through a large, complex physical space?", the immediate answer would be "a physician's office". We investigated the high density mobile solutions that have worked well for this type of business model to see if they might translate well to the law office setting. It seems to be a practical as well as a cultural "fit".

Installing a high density mobile storage system in a main file room, with smaller "overflow stations" on two floors, and even smaller units in each attorney office and assistant area would increase the overall storage capacity, reclaim the use of most common areas and free up potentially revenue-generating spaces currently occupied by boxes. The main file room capacity by itself is estimated to equal the contents of 6000 boxes with a size of 10" x 12" x 15". This alone could accommodate all 6000 boxes currently onsite, assuming none needed to be closed and sent offsite. The system's overall storage capacity and adjustments to the use of some spaces could make it possible to expand to accommodate up to 14 future teams of attorneys and assistants.

Added to the greatly increased storage capacity would be the benefit of barcode scanning technology for tracking the location of documents and files. End tab systems can be color coded according to a document collection policy and file ownership. This would enhance visual recognition, filing efficiency and may eventually simplify filing so that it could be assigned to lower paid personnel.

Refer to [Appendix J](#) for a breakout of cost and benefits, suggested document cycle and flow diagrams. **Cost savings from implementation could amount to \$8,000,000 over the next 5 years. Add to this the savings achieved through file closing by a Filing Assistant another \$525,000 plus a possible increase in gross revenue of \$37,000,000 accommodated through increased storage capacity and expansion into available space within the current office environment.**

iii) Introduce High Density Mobile Storage Systems (cont'd)

CULTURAL “FIT”:

AUTONOMY

If HDMS is supported by a document collection policy, individual attorneys do not have to change very much about their day to day practices.

Scanning documents and files in and out of practice areas is simple, and location lookups can be performed by assistants, attorneys and file managers alike. Document / file retrieval can be easily assigned to a runner once the location is known.

COLLEGIAL CO-OPERATION AND RESPECT

Immediate benefits can be experienced as common work rooms are converted back to their original purpose. [Appendix J, Document Cycle Step 10](#) outlines a suggestion for regulating use of common work rooms so that attorneys and files can cycle in and out of spaces as needed.

Increased storage capacity in attorneys’, assistants’ and paralegals’ areas defuses territorial tensions, reduces anxiety, and frees up productive attention.

A commonly respected method for circulating files and documents enables better time management and better co-operation on shared projects.

HIGH ETHICAL STANDARDS

HDMS and related shelving units all have lockdown features that secure their contents. Document security and risk of breach of confidentiality can be significantly reduced.

NO QUANTIFICATION OF ACTIVITY

The primary dividend of such a solution would be in how “good” all stakeholders feel in its use, how closely it mimics current practices, and how far it improves their efficiency. A system of this kind would make it easier to visually identify documents and folders, reduce filing time and frustration, and reduce time spent looking for missing documents and files.

Staged introduction of the system by implementing **i** and **ii** first can reduce anxiety and lower resistance to adoption.

File room management, work room booking, aging file migration into onsite overflow units should be the primary function of the File Manager. Daily file location printout and file retrieval should be the responsibility of the File Manager or trained assistant.

iv) Adopt Hybrid Approach: HDMS + Electronic Document Archiving + Offsite Storage

This could be a good “transition solution” that could gradually move the Firm away from its complete dependence upon physical documents for reference and lay the groundwork for a future, all-electronic workflow.

One drawback to a completely electronic document workflow at this moment is in the management of emails as they relate to the rest of a client matter. Much better minds than ours have concluded that the world has a problem with email content as its own kind of “document”, and that present email archiving solutions don’t always marry easily with other electronic document management solutions. It’s hard to find a good, out-of-the-box, *inexpensive* electronic solution that mimics a physical document folder containing every type of document relevant to the matter, including email “documents” and their attachments.

Emails and their attachments can be copied to a document format that can be saved in document dbase, but this is a time-costly work-around that probably duplicates effort already expended in printing the email and filing it physically with the matter. Even if this method were to replace the physical document, resistance to going to an all-electronic workflow may present too great a barrier to ensure consistent adoption of new practices. Even worse, it might contribute to a greater dissonance of personal work styles.

However, in future, a good *electronic archive* could be built to mirror a good *physical archive* on the “back end” for more convenient and effective lookup of stored documents. File management personnel responsible for sending a file/box to storage could also ensure that electronic versions and scanned copies of all physical documents were retained in corresponding folders in I-Manage or another database. This would create a database foundation to build a future workflow around, and get the Firm ready for more paperless demands from the Courts.

This could also create a comfort-zone for attorneys not used to electronic document management, where they could immediately access the contents of a stored file, and make a decision whether or not to recall the file or box from storage.

Once attorneys are comfortable with referencing scanned, closed matters, that comfort could be transferred to working with a more comprehensive “front end” electronic document flow. Once they are confident that electronic archive files accurately mirror the contents of the stored box, then they can be more at ease about sending fewer documents to storage, eg: only permanent files, “blue ink” etc. By that time, better and less expensive email solutions might also be available.

We have not calculated the cost of this solution in this report because we feel that it would be enough of a shift for the Firm to adopt the common practices in physical document management solutions it needs most urgently at present. Solutions **i-iii** are presented in order of magnitude of difficulty/resistance, and should be adopted in sequence.

Once the Firm sees increased efficiency and revenues from better physical document management, then the cost/benefit of investing in document scanning and database development should be considered.

v) Adopt an All-Electronic Document Workflow and Archiving

There are several reasons why we feel this would not be an ideal option at this time. We feel that the Firm's IT department is ready enough to support this kind of solution, but for the rest of the Firm, it may represent too high a hurdle to clear from this point. Some objections are outlined in option **iv**. Some others include:

Not a good enough "fit" with the Firm's culture to ensure successful implementation or return on software investment.

Serious disruption to current practices and preferences.

Available database solutions may not be flexible enough to accommodate attorneys' file naming preferences and may force certain taxonomies and document classifications.

Would not solve current space and paper document management challenges.

Not gradual enough to give attorneys time to adjust in small increments, or to experience small positive outcomes and reassurances.

As a long term solution, we feel that this is where the entire industrial world is headed. We feel that it's wise to begin moving in this direction now, but as an immediate solution, it would be a highly ambitious undertaking that could end too easily in failure given the Firm's current culture and attitudes toward change.

Through our interviews with attorneys and associates, two points were made clear:

- a) Change and more profitability in document management are desired *if* attorneys can keep most of their current way of life.
- b) Change and more profitability in document management are desired *if* those changes are not too painful to make.

Authoritarian intervention by the managing and senior partners would be the only way to implement this type of solution. However, it would conflict with both (a) and (b). Although authoritarian management style may be common in other firms, we believe that the *lack of* authoritarianism sets LFA apart from others.

Right now, there are at least two partners who do not use computers at all. Others were dragged or prodded into the digital age, and the last group was born into it. The challenge in full-scale conversion to a digital workflow is in enabling all attorneys to function highly throughout the entire learning curve. An abrupt departure from current methods could significantly impair many attorneys' performance during implementation, and after.

There's also an issue that rises out of mentorship and how it impacts associates' work styles. Mentorship is an aspect of the cherished principle of collegial co-operation and respect among attorneys. Younger attorneys are positively influenced by their mentors in so many ways, but a mentor's influence can also help perpetuate an older style of document management. A possible reciprocation of mentorship could happen if younger attorneys were allowed to "mentor their mentors" in the adoption of an e-document workflow, but this might represent too great a shift in relationships or traditional hierarchies to be of real assistance in a Firm-wide overhaul to an all-electronic document workflow. However, as part of a gradual migration, this idea might have some merit.

vi) Conclusion:

Document management and the Firm's culture are like a two-lane highway. Restrictions, detours, speed bumps, signage and operating conditions on either side affect everyone who travels along it daily. Solutions to current document management challenges outlined in **Part II** need to "keep lanes open during construction".

Firm-wide migration from the "physical" to the "virtual" document environment can take place at a deliberate pace if:

- (a) the Firm's culture supports, and is supported by, the migration
- (b) the wider environment (Courts) move at roughly the same pace
- (c) technology and software solutions evolve at the same pace, or faster than (a) and (b)

Substantial economic and operational benefits can accrue to the Firm through a ***gradual process*** of undertaking this migration, as outlined in parts **iii** and **iv** of this section.

We suggest that the Firm consider the following course of action (in order, *timetable optional*) as a way to "keep lanes open during construction":

- 1) Review the suitability of current document storage supplier vis à vis costs of supporting a long term document retention plan that would include a regular schedule of permanent file removal. Negotiate favorable terms or terminate.
(completion: May 20XX)
- 2) Collaborate on, ratify and implement a Document Collection Policy whose practices will enable lower-paid, trustworthy personnel to perform most file- and box-cleanup for storage.
(completion: July 20XX)
- 3) Collaborate on, ratify, and implement a Document Retention Policy whose practices, checks and balances will give attorneys confidence that aged documents can be safely removed from the Firm's care according to the Client's, or their own, direction.
(completion: October 20XX)
- 4) Install and implement a Hi-Density Mobile Storage system to relieve current demands on space, recover time and profit lost to inefficient document management, and make room for future growth or expansion.
(completion: October 20XX)
- 5) Begin developing a digital archive of closed matters.
(commencement: after satisfactory implementation of 1-4 only, 20XX-20XX?)
- 6) Begin envisioning digital workflow that mirrors physical workflow with digital archive as foundation.
(commencement: after satisfactory implementation of digital archive.)

IV. WHAT OTHER ISSUES HAVE BEEN BROUGHT TO LIGHT DURING THIS SURVEY?

Our interviews with attorneys, assistants, associates and support personnel brought a few other issues to the surface.

A document management policy & procedure manual would accelerate every new employee's orientation as well as increase their confidence and comfort level.

In their survey, Associates expressed a certain amount of anxiety about making mistakes and not knowing where are the limits and guidelines for document management. They are sensitive to Partners' time and attention, and sometimes worry that questions about correct execution of procedure will reflect poorly upon them.

A Document Collection and Retention Policy could form the backbone of a good introductory training manual for incoming Associates and staff. A manual could also relieve the Partners' time in the most basic aspects of document management training.

Attorneys need education and reassurance of the IT department's effectiveness vis à vis e-document security & backup.

The Firm's IT department has gone to great trouble to secure the Firm's "electronic perimeter" to make certain that firewalls, virus scans and redundant backup systems are all functioning properly.

Despite this, attorneys, associates and assistants all expressed some low-level anxiety about whether their documents and would be secure and accessible in the event of a virus attack or system malfunction. These perceptions and anxieties, whether they are grounded in fact or emotion, should be resolved if the Firm wishes to develop an electronic archive.

Changing location for internal meetings can improve efficiency and use of space.

A few associates mentioned that sometimes after they have been summoned for an internal meeting, they have to wait in the Partner's office while the Partner's attention is directed elsewhere in telephone, or other, conversation.

There is currently a good deal of conference room space that seems to enjoy less than 50% occupancy during the day. If Partner/associate meetings could take place in conference rooms, this could minimize interruptions. In the event the Partner is delayed by another matter, an associate could bring other work into the conference room and use his waiting time profitably without appearing rude.

This would be an improvement in use of time and space.

Written job descriptions can improve the state of mind and effectiveness of support personnel.

Currently, the Records Manager has no formal description of his/her duties. S/he expressed during our interview that s/he feels uncertain about whether his/her value is recognized. S/he currently fills a job function that appears to go a great deal beyond records management, and extends to physical maintenance of the building. It seems that s/he has “evolved into” responsibility for these duties without a formal mandate, and so feels anxious about parameters for his/her performance measurement.

It’s possible that other support personnel who have been allowed to “evolve” into certain duties may be feeling the same sort of anxiety. Not having any formally set performance goals and expectations beyond “get it done” can be a blessing when workloads are manageable within a 40 hour week. But it can also be a source of great anxiety and dissension when workloads spike. The last thing any support person wants to find out at review time is that her boss remembers the one thing she didn’t get done at a “crunch time” when she was juggling an impossible load with a floating definition of her priorities.

Low level anxiety like this can affect attitudes during spikes in workload. It can add stress, lower productivity, increase feelings of indecision & paralysis, and impair good judgment.

Clearly worded job descriptions can help support personnel conform to expectations and successfully arrange their priorities in both pleasant and difficult times. It would also help management to identify those team members who consistently display competencies that are “above and beyond”, and so qualify them for advancement in areas of their strengths.

Training the assistants to handle mail from the courts, etc. will save attorneys significant time that they currently devote to calendar management.

Several of the associates expressed a desire that assistants be trained to respond to calendar-sensitive, routine correspondence from the courts, counterparties, etc. If assistants could be trained to be reliably pro-active about calendar related correspondence and tasks, the attorneys can direct more attention to the actual substance of those calendar events.

APPENDIX A

STORAGE PRICING

Secure space for the storage of deposits.

\$0.200 per cubic foot per month

Storage Minimum:

\$105.00 per month

Storage charges will be billed monthly in advance.

MANAGEMENT SERVICES PRICING

Services during normal business hours, Monday through Friday
8:00 a.m. to 5:00 p.m., excluding holidays.

New Deposits (receiving and entry)—The receipt of additional Customer deposits resulting in an increase to the Customer storage:

\$1.25 per cubic foot

Retrievals or Refiles—The temporary retrieval of deposits from, or return to, storage. (Rush applies to retrievals only.):

Standard \$2.50 per cubic foot

Standard \$3.42 per file

Rush \$3.79 per cubic foot

Rush \$4.30 per file

Destruction—The preparation, documentation, and physical destruction of deposits that are stored at Iron Mountain:

Destruction by Shredding

\$3.07 per cubic foot plus retrieval

\$3.07 per file plus retrieval

Destruction by Recycling

\$2.50 per cubic foot plus retrieval

\$2.55 per file plus retrieval

Permanent Withdrawal—The preparation, documentation, and permanent withdrawal of deposits:

\$3.07 per cubic foot plus retrieval
\$3.07 per file plus retrieval

Miscellaneous Services

Labor \$38.99 per labor hour

Service Minimum:

\$5.00 per transaction

Individual List—Data entry of file descriptions:

\$0.29 per file

Interfiles—The filing of an item into an existing carton or file:

\$2.51 each

Account Closing—The removal of all deposits upon termination of contract:

\$5.48 per cubic foot

TRANSPORTATION PRICING

Delivery and Pick-up

Next Day

\$10.43 per transportation visit, \$0.60 per cubic foot
Call by 3:00 p.m. for delivery next day by 5:00 p.m.

Half Day

\$10.50 per transportation visit, \$0.60 per cubic foot
Call by 10:00 a.m. for delivery same day by 5:00 p.m.
Call by 3:00 p.m. for delivery next day by 12:00 p.m.

Emergency Visit (Rush)

\$68.88 per transportation visit, \$0.60 per cubic foot
Delivery within 3 hours of request.

After Hours/Weekends/Holidays

\$156.82 per transportation visit, \$0.60 per cubic foot
Delivery within 4 hours of request

All per transportation visit pricing is subject to a fuel surcharge based on the then current national average price of diesel fuel. The surcharge will be re-calculated monthly. The complete policy can be found at www.ironmountain.com/fuelsurcharge.

All other services, not specifically listed, will be charged at Iron Mountain's then current rates.

Unless specified herein, shredding pricing is for paper shredding services only. Shredding of other media types will be quoted on a per project basis.

COMPUTER AND REPORTING CHARGES

Included in the Customer's storage rate are the Monthly Supplemental Reports. All other reports (including special sorting and special file listings) are subject to the computer listing charge and/or initial setup, reporting, or download fees, quoted by job scope.

APPENDIX B

ASSISTANTS' QUESTIONNAIRE

Total Returned Questionnaires: 21

1. What percentage of electronic documents do you keep on your desktop?

0% of Docs	9	42.86%
1% - 10%	9	42.86%
Unknown	2	9.52%
Personal Docs only	1	4.76%
	21	

2. What percentage of electronic documents do you keep in I-Manage?

100% of Docs	9	42.86%
90-99%	10	47.62%
5%	1	4.76%
Unknown	1	4.76%
	21	

**3. Does the attorney(s) you work for keep electronic documents on his/her desktop?
If yes, how do you manage these?**

Yes - rarely manage	1	4.76%
Yes - manage through network	1	4.76%
Yes - never manage as these are personal	1	4.76%
Yes - never manage as these are personal	1	4.76%
No	10	47.62%
No - attorney does not use computer	2	9.52%
Unknown/Not Sure	5	23.81%
	21	

4. Does the attorney(s) you work for keep electronic documents on his/her home computer? Laptop? If yes, how do you manage these?

Yes - never manage	2	9.52%
No	13	61.90%
Unknown/Not Sure	6	28.57%
	21	

5. How do you store and retrieve document attachments and relevant email content from the client or counterparty?

Save attachment as Doc in I-Manage	4	19.05%
Save as Doc in I-Manage, print and file hard copy	1	4.76%
Save as Email in Outlook	4	19.05%
Save Email in Outlook, print and file hard copy	8	38.10%
Save Email and Attachment as I-Manage doc, and save Email in Outlook	2	9.52%
Print Email and Attachment, do not save	2	9.52%
	21	

6. Are document drafts identified in the physical files? If yes, how?

Yes - Stamped or Marked "Draft"	7	33.33%
Yes - In a Folder	10	47.62%
Yes - Stamped AND Filed in Folder	1	4.76%
No	1	4.76%
No - Unsigned or Marked Up Copy is recognized as "Draft"	3	14.29%
	<hr/> 21	

7. Are duplicate copies of documents identified in the physical files? If yes, how?

Yes - Stamped or Marked "Copy"	3	14.29%
Yes - In a Folder	8	38.10%
Yes - Not Specified	1	4.76%
No - No Dups produced or saved	2	9.52%
No	6	28.57%
No Answer	1	4.76%
	<hr/> 21	

8. Are attorney's notes identified in the physical files? If yes, how?

Yes - Stamped or Marked "Notes"	1	4.55%
Yes - In a Folder	18	81.82%
Yes - Handwritten Notes recognized as notes.	1	4.55%
No	2	9.09%
	<hr/> 22	

1 Extra Response: 1 assistant replied re - 2 attorneys

9. Do you keep track of files and boxes sent to storage? If yes, how?

Yes - relies on Olivia's records	6	28.57%
Yes - saves record in I-Manage	4	19.05%
Yes - uses an I-Manage record and relies on Olivia	3	14.29%
Yes - uses a logbook and relies on Olivia	1	4.76%
Yes - uses a logbook	1	4.76%
No	3	14.29%
No Answer	3	14.29%
	<hr/> 21	

**10. Do you keep track of the specific contents of files and boxes sent to storage?
If yes, how?**

Yes - occasionally by doc on I-Manage	5	23.81%
Yes - box Labeling	1	4.76%
Yes - I-Manage Inventory List	5	23.81%
Yes - relies on Olivia	1	4.76%
Yes - only if matter occupies 5 boxes or more	1	4.76%
Yes - document on I-Manage and hard copy index	1	4.76%
No	6	28.57%
No Answer	1	4.76%
	<hr/> 21	

11. Do you personally prepare files and boxes of closed matters for storage?

Yes			17	80.95%
No			3	14.29%
No Answer			1	4.76%
			<hr/> 21	

12. How long does it take you to prepare a file for storage? A box?

	File		Box	
Unknown/Unsure	8	38.10%	11	52.38%
No Answer	3	14.29%	3	14.29%
File 5-10 mins	6	28.57%		
File 11-15 mins	3	14.29%		
File 16-30 mins	1	4.76%		
Box 20 - 30 mins			2	9.52%
Box 1hr +			4	19.05%
Box Large Matters 1-2 Days +			1	4.76%
	<hr/> 21		<hr/> 21	

13. How many attorneys/practice areas do you work for?

	Attorneys		Prac. Area	
1 Attorney				
2 Attorneys	6	28.57%		
More than 2 Attorneys	12	57.14%		
	1	4.76%		
1 Practice Area			1	4.76%
2 Practice Areas			5	23.81%
More than 2 practice areas			2	9.52%
No Answer	3	14.29%	13	61.90%
	<hr/> 21		<hr/> 21	

13. Describe those things about the Attorney's workflow or organizational habits that make your lives easy.

Some kind of personal system of filing, &/or labeling &/or color coding	6	28.57%
Attorney's personal qualities eg: memory, communication, detail oriented,	4	19.05%
Calendar management	1	4.76%
Nothing / no answer	10	47.62%
	<hr/> 21	

14. What are your biggest frustrations about physical filing and document management?

Volume & quantity of paper / space issues	11	47.83%
Not being able to find a file or document (in area or out of area)	9	39.13%
Different filing systems from attorney to attorney	1	4.35%
Recalling files from offsite	1	4.35%
Time is short	1	4.35%
	<hr/> 23	

Comment: some gave 2 answers.

15. What are your biggest frustrations about electronic filing and document management?

None / no answer	8	38.10%
Lack of consistent file naming conventions	6	28.57%
Computer malfunction	2	9.52%
Don't do it / NA	5	23.81%
	<hr/> 21	

16. What tasks are the biggest "time wasters" of your day, week, month?

Filing / refiling / reorganizing paper	4	17.39%
Looking for files / documents	8	34.78%
Email composition or management	2	8.70%
Photocopying	3	13.04%
Doing a task over	1	4.35%
None / no answer	5	21.74%
	<hr/> 23	

Comment: some gave 2 answers.

APPENDIX C

4. What % of your time is used for printing emails and organizing and searching for paper documents?

Approximately 15-20%.

3%

Probably as much as 25%. We do so much emailing and that all has to be documented in there, especially where you are working with others on a file and they need to be able to grab the file and know what is going on.

I generally print all of my client emails from the week on Friday afternoon and my assistant files them. My assistant is familiar with all of my files and can locate any document for me in a relatively short amount of time.

Maybe 5-7 %.

At least 15% of my time is used printing and responding to emails. As long as an appropriate filing system is maintained (depending on whose files you are working with) you usually do not have to spend a lot of time looking for documents.

Very little. I think our system is pretty efficient

I HAVE A HIGH VOLUME OF EMAILS. SO I SPEND APPROX 10-20% OF MY TIME PRINTING EMAILS, ORGANIZING THEM INTO FOLDERS IN OUTLOOK. MY ASSISTANT ORGANIZES THE PAPER EMAILS, BUT I STILL HAVE TO PRINT & SORT THEM.

Probably around 20%.

5. What percentage of the floor-space in and around your office is used for storage of boxes that belong to a matter with which you are assisting a partner?

50%.

30%-40%

My office is small so I put all of my files on shelves and the files take up most of the shelf space.

A very large percentage.

5-10%.

Every shelf in my office has boxes of projects I am working on with partners, but I don't have anything on my floor.

A fair amount.

20%

Around 40%.

6. If another atty's work never occupied the space that is designated to you & your staff, and retrieval from off-site storage were reliable, quick & easy, what % of the boxes that surround you now could be sent off-site?

5%. I review the files/need to get documents from the files I have on a daily basis.

60%

Maybe half my files

Zero. I regularly work from the files in my office. If I am temporarily not using a file, it is stored in my assistant's area. If we are done with a case, the file is closed and sent off-site.

I do not believe much because I will need most of the materials I keep in my office.

None, these are projects I work on almost daily.

I DO NOT THINK THIS IS A GOOD OPTION FOR MY TYPE OF WORK. I WORK ON 10-15 CASES PER DAY AND NEED READY ACCESS TO THE FILES WHEN CLIENTS CALL, OPPOSING COUNSEL CALLS, NEED TO FILE PLEADINGS, ETC.

Perhaps 20%. Most of the partners' files that are in my office are open files on which I am currently working. Thus, regardless of whether they were my files or a partner's files, they'd remain in my office because they're still open.

7. What benefits can you see from having a protocol about how to close a file?

I think this would be great. Different partners have different ideas about how to close their files so I think a uniform system would be beneficial.

I get the impression that many associates do not close files because (1) they don't know how; and (2) they don't know when it is appropriate to do so. This results in files never being properly closed and sent off site.

New Associates would know how to do so and we can make sure the things that the firm wants in the file before closing are in there; uniformity.

Having a uniform procedure for organizing and closing files would streamline future work when the file needs to be reopened.

Getting rid of the file would create more physical space.

It might save time because you wouldn't need to ask so many questions. You would know how its done.

HAVING THIS PROTOCOL IS CRUCIAL. I DOUBT MANY ASSOCIATES HAVE ANY IDEA HOW TO CLOSE A FILE. I HAVE CLOSED FILES BEFORE, BUT WE ARE IN DESPERATE NEED OF A WRITTEN PROTOCOL. THIS PROCESS NEEDS TO BE STREAMLINED BECAUSE WE CANNOT BILL CLIENTS FOR CLOSING A FILE.

THUS, PARALEGALS AND ASSISTANTS SHOULD BE TRAINED TO EXECUTE THE PROCEDURE AND FILL OUT A FORM TO PROVIDE TO THE LEAD ATTY ON THE CASE.

Establishing a protocol for closing files would help to keep files from needlessly taking up space in and around my office. Currently, my "policy" (if you want to even call it that) is to leave a file sitting in my office for about a year and a half, and if nothing comes up within that time period, I send it to Olivia for her to "close" it, which I assume means to send it off site.

8. What are your biggest frustrations regarding physical filing and document management?

My office isn't large enough to hold all of the files I am working on and/or there are 4+ people working on a case (associate, partner, secretary, paralegal). Often the files are split up -i.e. correspondence and research in one office and financials in another office, etc. When someone is looking for a document, they have to figure out where to look-- it can be in one of 4 offices.

I often have a suffocating number of boxes in my office that should not be in here. This creates an uncomfortable work environment.

The amount of time I spend printing and filing emails, finding documents on the system.

Lack of uniformity from partner-to-partner in file/document management. For example, some partners require daily management of their files, making multiple copies of each document to go in many specific, distinct subfiles. Others don't utilize subfiles at all and don't require their assistants to keep the filing up-to date. Some partners use a color-coding system, others don't. One partner organizes his pleadings in reverse order from everyone else. It takes a long time to learn each partner's preference for organization.

Physical space issues, waste of paper products, documents being misfiled with no search mechanism, time consuming to rifle through files during a search, paper cuts.

It is frustrating to learn everyone's system of doing things. Almost every partner maintains their files different. Similar, but different and you have to learn the distinctions of each.

VOLUME OF PAPER AND KEEPING UP WITH FILING PAPER EMAILS.

Going through the hassle of creating twenty or thirty subfolders for an accordion file; balancing the need to sufficiently organize different types of documents against the hassle of having too many subfiles such that the organization actually makes it more difficult to find something you're looking for.

9. What are your biggest frustrations regarding electronic filing and document management?

The internal computer systems aren't uniform so I have to figure out whose computer is able to download what type of document or whose computer is not fire-walled from the court/register of deeds, etc. websites or whose computer is able to print to a certain printer.

I find electronically-filed documents to be less accessible or user-friendly (this is probably a matter of personal preference)

Having to scroll through the different subfolders to find where the document is filed, not having originals, nervousness about missing something and then shredding for a paperless system.

We don't store documents electronically, other than those we create. I think a move to a paperless office would be great and would ultimately help our practice & our clients. It would be efficient to scan all pleadings, correspondence, etc. and save it electronically so that it was easily accessible and available when out of the office (at depositions, mediations, court appearances, etc). My concern is whether our assistants currently have enough time in their days to stay on top of this additional requirement.

Risk of loss, computer problems, we probably will need to print the documents at some point so maybe a waste of time, teaching everyone how to do it, expense for technology purchases and upgrades.

MAKING SURE AN EMAIL IS PRINTED FOR THE PAPER FILE AND STORED IN THE CLIENT FOLDER ON OUTLOOK.

The fear of not having a paper copy when I need it; not having copies to file with the court if I need it; not having extra copies for the judge and/or opposing counsel; the fear of a virus wiping out my hard drive and taking my documents with it. Also, often times a partner will ask me to come to his/her office to review a particular pleading or letter. If all documents are stored electronically, I then have to go through the hassle of printing off a hard copy to bring to the partner that requested it. Following that meeting, I then have to either throw the hard copy away or create a subfile for it. It seems to me that this way of storing documents could often times be just as cumbersome, if not more so, than good ole fashioned paper filing.

10. What tasks are the biggest "time wasters" of your day/wk/month? Be specific in time and subject, such as sitting in a partner's office while he is on the phone conversing about an unrelated matter. What % of yr total hrs do these "time-wasters" take up on average?

Printing off emails to file and making sure that any correspondence, esp. those related to filing deadlines are copied to all of the people (partner/paralegal/secretary/client) involved in a case and/or making sure that I have been kept in the loop concerning correspondence that has come in to the partner or his/her paralegal/secretary.

Sitting in a partner's office while he is on the phone on an unrelated matter; chatting with others (against my wishes) about non-work related matters. This probably takes up 3-4 hours of my time per week.

Printing emails and documents and filing them; walking to the printer each time; trying to catch a partner in their office and not on the phone (and running up and down the steps to do so); being interrupted by others with unrelated conversation when meeting regarding a client's matter with another attorney. I probably lose at least 2 hours a day to these things.

The biggest problem I have is being assigned work and not receiving a full explanation of what needs to get done. Beyond the important teaching method of figuring things out on my own, I feel as though there are times when the partner could take a few more minutes to explain something that will preclude me from having to spend extra time completing the project. I would estimate that maybe 5-8 % of my time is directed to this issue.

MOST OF MY TIME WASTERS INVOLVE READING, PRINTING, SORTING, FILING AND GENERALLY KEEPING UP WITH PAPER AND ELECTRONIC EMAILS.

Not having my secretary nearby. A large part of my day is spent walking back and forth. If I dictate a letter, I have to put a yellow "sticky-note" on it and place it in a box for a runner to take. She drafts the letter and sends it back to me. I review the letter, mark any changes that might be necessary, and send it back to her. She revises it and sends it back to me. I sign it and send it back to her. She then sends the letter out and sends me a copy to I'll know it went out. If she has that particular file in her office, I'll send the copy back to her for filing. Now, imagine doing that about twenty times a day. Moreover, half of my files are in her office and half are in mine. If I need a file that she has in her office (i.e., for a telephone conference), I have to walk over there to get it or ask a runner to bring it to me. This running "back and forth" wastes a large amount of my time during the day.

Finally, often times I will be called to a partner's office to discuss a case with him/her. If the partner is on the telephone when I walk in, I usually wait (uncomfortably) until the conversation is finished. Out of politeness, I do not go back to my office. This can sometimes take 10-15 minutes. I feel this is wasted time.

11. What other procedures/actions could help a new associate to be more effective in his/her own space?

A manual/guide etc. and/or new associate orientation which includes uniform procedures for handling documents and file management.

New associates should be trained in how to organize and maintain a file, and when and how to close a file. Other solutions would be more individualistic, and probably not subject to "training."

For me, an L shaped desk so that I can have a computer space and a work space, as well as a small printer that I can easily print things since my practice is very document heavy (so I don't have to spend time walking back and forth to the printer or sorting through other people's prints). Also, a procedure handbook for new associates regarding how to open a file, how to close a file, how to request checks for files, what needs partner's signatures, etc. My mentor has been a great resource for this but I think it would save both of us a lot of time by me having a book I could look to for the answers.

I would suggest some sort of orientation program when a new associate starts. It does not have to be long or involved. Just a quick review of how the basic procedures work in the office. For example, billing, organizing a file, how to involve a client in the representation process, fee agreements, opening a new matter, closing matters, and conflict checks. Also, maybe pair the new associate with an experienced assistant who can help acclimate him/her with office and practice procedures.

It would be helpful if "notes" from client meeting were more legible.

I think a comprehensive and detailed mentoring plan could be developed, or at least a program establishing certain protocols to be followed, which each new associate would be educated on. This program might explain how to properly manage time and files. Everyone here has there own way of "doing things," and I think that if a system were developed and reduced to writing, we might all be able to get on the same page.

HAVING DESIGNATED SPACES IN AREAS NEAR OUR OFFICES FOR STORING FILES; HAVING A MENTOR EXPLAIN THE FILING PROCESS; LEARNING TO HAVE A UNIFORM SYSTEM OF FILING ELECTRONIC / PAPER DOCUMENTS.

APPENDIX D

Summarized from ARMA *Report on Issues Surrounding Retention of Client Files in Law Firms*

Suggested Document Collection Policy Checklist:

- 1) Get mandate from Managing and/or Senior Partners.
- 2) Form a working group of attorneys, records manager and other support as deemed appropriate for their knowledge/involvement in day to day records management.
- 3) Describe typical documents found in matter files and create generic categories.
- 4) Decide which types of documents belong / do not belong in files.
- 5) Define the physical and virtual boundaries of areas for document collection: does attorney's "home office" products qualify for collection?
- 6) Design any forms and document step by step process for routine review of documents at close of matter.
- 7) Decide what happens to "personal" elements: research, notes, duplicates, marked up drafts. Discuss control of executed copies.
- 8) Describe how to handle return of original documents and how to keep permanent documents and how to comply with existing confidentiality agreements.
- 10) Design accountability measures and assign responsibility at each step.

APPENDIX E

Document Collection Policy – Major Subfiles in a Matter:

As an example, the following outline has been summarized from that published in the ABA Law Library Journal [Vol. 93:1]:

Correspondence

- Clean copies only. Marked up copies s/b filed with Notes
- Chronological order
- Personal correspondence between firm attys s/b separated

Documents or Court Documents

- Only final draft/closing documentation
- Litigation matters should include Court Docs subfile containing docket-stamped docs filed with court, relevant orders & opinions

Drafts

- Final stored file should contain only one single clean unmarked copy of each draft received by or prepared and circulated outside the firm.
- Marked up copies of drafts s/b contained in subfile for review at closing of matter.

Notes / Memoranda / Legal Research

- Working file may contain 3 subfiles, one for each item.
- ABA recommends transcribing relevant handwritten notes and discarding the rest.

Client Relations

- Engagement letter if applicable
- Conflict reports, letters or waivers
- Client billing (if no Client Billing main subfile is requested)

Permanent File

- Any documents likely to have useful life beyond 10 years eg: leases, licenses, stock transfer records, by-laws, shareholder agreements.
- Estate planning docs, wills and trusts s/b handled under a separate doc retention policy altogether.

Cont'd

Other subfile categories may include:

Client Papers:

Copies of documents supplied by client to assist in preparation or negotiation.
Firm should not retain the contents longer than necessary to make copies or to respond to court orders.

Subfile s/b removed before being sent to storage.

Firm's retention &/or disposition of Client Papers should be at express written instruction of Client.

Real Estate practice will necessitate exceptions: should have its own subfiles for titles and leases.

Corporate Review:

Any materials collected during the conducting of a due diligence investigation which do not fall under other categories.

Retention/disposition according to atty discretion.

Firm Opinion File:

Preparatory and final drafts of formal rendered opinions of the Firm.

Backup materials eg: internal memoranda, certificates of public officials etc.

Drafts and materials should not be duplicated in Client Papers or Notes / Research / Memoranda subfiles.

Title Matters:

S/B for Real Estate practice, subdivided as necessary for type of transaction.

Government Applications & Approvals:

For matters wherein Firm represents regulated entities.

Should contain only those papers that relate to formal &/or informal positions taken by regulator.

Other Subfiles:

Any subfiles requested in order to make the above more "user friendly".

Ideally they should be contained in one of the above categories.

May be temporary or permanent & easily identifiable as such.

Taxonomy should identify contents and link it to its parent folder.

APPENDIX F

Table of File Closing Costs

FILE CLOSING COST - assistant			
Cost Salary + Benefits Paid for 1 hr	est.		\$35.00
Loss of revenue generating work 1 hr			\$35.00
Cost 1 hr of File Closing			<u>\$70.00</u>
# Boxes Closed & sent offsite 2007			828
Est avg. hours per box	0.75		621
Cost of box closing			<u>\$43,470.00</u>

FILE CLOSING COST - paralegal			
Loss of billable time 1 hr	est.		\$100.00
Cost 1 hr of File Closing			<u>\$100.00</u>
# Boxes Closed & sent offsite 2007			828
Est avg. hours per box	0.75		621
Cost of box closing			<u>\$62,100.00</u>

FILE CLOSING COST - attorney			
Loss of billable time 1 hr	est.		\$350.00
Cost 1 hr of File Closing			<u>\$350.00</u>
# Boxes Closed & sent offsite 2007			828
Est avg. hours per box	0.75		621
Cost of box closing			<u>\$217,350.00</u>

FILE CLOSING COST - combination			
# hrs/yr to close boxes			621
Attorney File Closing Cost 1 hr			\$350.00
#hrs/yr	50		\$17,500.00
= 1.35 boxes per atty per year			
Paralegal File Closing Cost 1 hr			\$100.00
#hrs/yr	221		\$22,100.00
Assistant File Closing Cost 1 hr			\$70.00
#hrs/yr	350		\$24,500.00
Total			<u>\$64,100.00</u>

FILE CLOSING COST - F.M. Assistant			
# hrs/yr to close boxes			621
Cost Salary + Benefits 1 hr			\$17.00
File Closing Cost			<u>\$10,557.00</u>
Cost of Atty / Paralegal / Assistant Closing			\$64,100.00
Annual Cost Saving			\$53,543.00

APPENDIX G

Summarized from ARMA *Report on Issues Surrounding Retention of Client Files in Law Firms*

Suggested Document Retention Policy Checklist:

- 1) Get mandate and support from managing and/or senior partners.
- 2) Assemble working group similar to Document Collection Policy workgroup.
- 3) Document all proceedings and decisions as evidence of firm's "good faith" effort to protect the Client.
- 4) Determine what document classifications come under the purview of the retention policy. If taxonomy exists, begin with this.
- 5) Establish understanding of the systematic flow of documents through the lifecycle of a matter. Flow charts are helpful.
- 6) List the steps that should be taken at the close of a matter.
- 7) Research local and national Bar opinions, the ABA *Model Rules*, the American Law Institute's *Restatement of the Law, The Law Governing Lawyers*, case law, statutory and regulatory law, and legal periodicals.
- 8) Analyze the firm's practices, culture, needs and relationship with clients in the past re: disposition of files.
- 9) Draft a policy statement for approval or revision.
- 10) ***Implement policy***

APPENDIX H

J: _____ P.A.

MEMORANDUM

TO: GRK
CC: PRM
FROM: JEG
DATE: July 12, _____
RE: Client Files –Dealing with Closed Files in Storage & Policy Going Forward

I've updated my research. Nothing has changed since my December 16, _____ memorandum to P

Dealing with Closed Files in Storage

I understand that we have upwards of 20,000 closed client files in offsite storage. These files occupy approximately 10,330 cubic feet. The firm is currently paying \$0.17 per cubic foot for one month of storage. A box is approximately 1.2 cubic feet. Therefore, as best I can determine, we're storing approximately 8,600 boxes (10,330/1.2) at a cost of \$.204 each (\$0.17 x 1.2) per month, or \$2.45 to store one box for one year. Approximately 1,731 boxes contain files that were closed more than ten years ago.

We may destroy closed files (a) at anytime with the client's consent; (b) after notice to the client and the client indicates that he or she does not wish to retrieve the file or fails after a reasonable time to retrieve the file or direct that it be transferred to another lawyer; or (c) without notice to the client, six years after the conclusion of the representation, so long as the file does not contain information useful in the assertion or defense of a client's position in a matter for which the statute of limitations has not yet expired.

Except for real estate and domestic files, I suggest a policy of destroying client files that have been closed for more than ten (10) years (this, incidentally, is M_____ A_____ policy across-the-board). The longest statute of limitation for actions other than for possession of real property is ten (10) years (N.C. Gen. Stat. § 1-47). We could therefore destroy files older than ten years without reviewing and analyzing the files to determine whether any information relates to any not-yet-time-barred claim. I singled out real estate and domestic files for individualized consideration because limitations periods for claims related to real estate are as long as twenty (20) and twenty-one (21) years (*e.g.*, N.C. Gen. Stat. §§ 1-35 and 1-39) and because it occurs to

me that domestic files might contain information related to potentially endless disputes, ongoing alimony or child support payments or to child custody, which may remain important until a child reaches adulthood.

Even eliminating the need for an attorney to review and analyze files for statute of limitations issues, destroying old client files will be labor intensive. Before we can destroy a file, we must review the file and retain:

- a. Any property “actually belonging” to the client (e.g., original deed, stock certificates, other personal property);
- b. Information the client may need, does not have, and which is not otherwise readily available (the opinion that imposes this obligation does not elaborate on what might be included in this nebulous category (RPC 16 (1986)) except to say that “the files should be screened and determinations made according to the nature and contents of [the] files” – original documents of legal significance, such as a contract, are probably included in this category and should be retained); and
- c. Accounts/records of receipts and disbursements (*i.e.*, fees and expenses).

We are also required to prepare and retain an index of what has been destroyed. (The ethics opinions offer no guidance as to the necessary detail of the index. My opinion is that general descriptions for certain categories of material, such as “correspondence” and “attorney notes,” would be reasonable and sufficient. Stand-alone documents (briefs, discovery responses, client documents) should probably be separately listed.)

A good and conscientious paralegal could probably handle review and preparation of files for destruction, with attorney guidance and oversight. Even still, the cost as compared to a yearly fee of \$2.45 per box, may be prohibitive.

Finally, I understand that [redacted] looked into the possibility of having files scanned and recorded onto discs (which still would not eliminate the need to review the files for client property and important originals). The cost would be about \$.25 a page, and is therefore not a realistic option.

Policy Going Forward

Going forward, I suggest that we (1) include in our representation agreement the client’s consent to destroy the file ninety (90) days after the file is closed, unless otherwise directed (I suggest that we actually wait at least 120 days for good measure); (2) that notice of closure and a reminder that the file will be destroyed be automatically sent to the client upon closing the matter; (3) that when a file is closed, it be prepared for destruction (index created and designation of material to be retained), whether or not the managing attorney determines to immediately destroy the file – doing this while the file is fresh will save us the difficulty of trying to sort it out ten years later; and (4) either destroy all files ten (10) years after they’re closed (with exceptions for real estate or domestic files designated to be retained longer), or adopt a slightly more complicated, but cost-saving policy of designating at the time each file is closed how long the file should be retained before it is destroyed (120 days to 10 years in the

typical case) (can set up a system using outlook to remind h of destruction dates for each file).

Proposed Fee Agreement Provision:

If within ninety (90) days of the Firm's notice to Client that the Firm's representation of Client with regard to this matter (or with regard to any other matter the Firm undertakes for Client) is concluded, Client has not retrieved Client's file or directed that it be sent to Client or to another attorney, Client agrees and consents to the destruction of Client's file. Client further agrees that if after ninety (90) days from the Firm's notice to Client that the matter is concluded, the Firm elects to store Client's file, and Client subsequently requests the file, Client will pay to the Firm the actual cost of retrieving the file.

Proposed Notice:

Re: *Matter Name*
Our File Number: 0000-00000

Dear [Client]:

Our representation of you with regard to the above referenced matter is concluded. Your file is available for you to pick up or, at your expense, we will forward it to you or to anyone else, as you direct. Please contact any of the attorneys who handled your matter to make arrangements.

If within ninety (90) days of the date of this letter you have not retrieved your file or requested that it be forwarded, we may destroy your file. If we elect to store your file, and you later request it, you will be responsible for the actual cost of retrieving it from storage.

If you have any questions, please do not hesitate to call.

Sincerely,

Let me know if there's anything more I can do, or if you'd like to talk about this before the firm meeting next week.

MEMORANDUM

TO: PRM
FROM: JEG
DATE: December 16, 20
RE: Client Files

Pi

I've completed the research you requested and have summarized my findings below. I've attached the relevant ethics rules and opinions for easy reference.

I focused primarily upon when and how we can destroy client files. Along the way, however, I identified related issues and have summarized those as well.

On July 24, 1997, the North Carolina Supreme Court approved the Revised Rules of Professional Conduct ("Revised Rules"). Some of the ethics opinions I've relied upon are based upon the old rules that the Revised Rules superseded ("Superseded Rules"). In each case, I've analyzed the analogous Revised Rule to make sure it is not substantively different from the relied upon Superseded Rule.

When a Closed File May Be Destroyed

We may destroy a closed file:

- a. At anytime with the client's consent;
- b. After notice to the client, and the client indicates that he or she does not wish to retrieve the file or fails after a reasonable time to retrieve the file or direct that it be transferred to another lawyer; **or**
- c. Without notice to the client, **six years** after the conclusion of the representation, unless the file contains information useful

in the assertion or defense of a client's position in a matter for which the statute of limitations has not expired.

RPC 209 (1996); Revised Rule 1.15-3(f) (substantively identical to Superseded Rule 10.2(b), upon which RPC 209 is based). See also 98 Formal Ethics Opinion 9 (1998) and RPC 234 (1996) (both reaffirming the six-year maximum file retention period set forth in RPC 209).

As indicated by the underlining above, before destroying any file, we should be careful to determine whether any information relates to any not-yet-time-barred claim or defense.

Procedure for Destroying File

(1) Before destroying a file without the client's consent, we must review the file and retain:

- a. Any property "actually belong[ing]" to the client;¹
- b. Any papers, research or information useful in a claim or defense for which the statute of limitations has not expired; and
- c. Any other information the client may need, does not have, and which is not otherwise readily available.

RPC 16 (1986) and RPC 209. The remainder of the file may be destroyed. RPC 209.

(2) Retained property should be returned to the client or kept in a secure place until retrieved by the client or until the property is deemed abandoned and escheats to the state. See N.C. Gen. Stat. § 116B-53(c) (attached).

(3) We should retain accounts/records of receipts and disbursements and an index of what has been destroyed. RPC 16.

¹ RPC 16 (1986) and RPC 209. The entire original file belongs to the client (RPC 209), so the opinions must be referring to special items. From my review of other opinions that were cited, or which relied upon opinions cited, by RPC 16, these special items include original deeds and, though I found no clear example, tangible personal property such as family pictures or jewelry. RPC 209 also refers to such property being deemed abandoned and escheating to the state under Chapter 116B of the General Statutes. Property to be retained, then, includes property listed in N.C. Gen. Stat. § 116B-53(c), of copy of which I've attached.

(4) There is no prescribed method for destroying files, although the method chosen must, of course, preserve client confidentiality. RPC 209; Revised Rule 1.6.

Recycling of Waste Paper

We may recycle waste paper so long as we “ascertain that those persons or entities responsible for the disposal of waste paper employ procedures which effectively minimize the risk that confidential information might be disclosed.” RPC 209 (quoting RPC 133 (1992)).

We should, however, retain and shred any confidential information that is extremely sensitive. RPC 133.

Retrieving a File from Storage

(1) We may charge a client the actual cost of retrieving a closed file from storage so long as we send a notice to the client within a reasonable time after the matter is concluded and the file closed, asking what the client wants done with the file and giving the client the following options:

- a. To consent to the destruction of the file;
- b. Agree that we will store the file with the understanding that the client will be charged the actual cost of retrieving the file; or
- c. To retrieve the file free of charge from our office within a reasonable time.

(2) If the client directs that the file be mailed, we may charge the client for shipping.

(3) If the client fails to respond to the notice, we must store it for six years, as described above, but can charge the client the actual cost of retrieving the file if the client wants it during that six-year period.

(4) We may not charge the client for copying a closed file (or any portion) unless the client asks for more than one copy.

(5) Regardless of whether we gave the client notice, if after the expiration of the six-year mandatory holding period the client wants the file, we may charge the client the actual cost of retrieving and copying the file.

98 Formal Ethics Opinion 9.

E-mail

(1) Whether we should retain e-mail communications depends upon the requirements of competent representation under the circumstances. We should have organized record-keeping practices and retain any e-mail needed to:

- a. Remain adequately prepared and abreast of the status of the case;
- b. Protect the client's interests;
- c. Provide assistance to successor counsel; and/or
- d. Protect us in the event our representation of the client is ever questioned.

2002 Formal Ethics Opinion 5; Revised Rule 1.1.

(2) We may, in our discretion, retain e-mail by printing it and adding it to the file or by storing it electronically. We must, of course, exercise our discretion in accordance with organized record-keeping practices and our duty of competent representation. 2002 Formal Ethics Opinion 5.

(3) Upon termination of the representation, the client is entitled to "a copy of any document [including e-mail] in the client's file that may be helpful to successor counsel except personal notes and unfinished work product." 2002 Formal Ethics Opinion 5 (quoting CPR 3) (underscore added); Revised Rule 1.16(d).

(4) In providing e-mail communications to a client that have been stored electronically, we need not print them for the client, but may give the client a computer disk or otherwise transmit them to the client.

2002 Formal Ethics Opinion 5; Revised Rule 1.16(d).

Microfilming or Scanning the File

I found no ethics opinions or rules dealing with the microfilming or scanning of files. However, these processes seem to me to be closely analogous to storing e-mail electronically, which is proper, having been deemed "reasonably practicable to protect a client's interests." 2002 Formal Ethics Opinion 5 (applying Revised Rule 1.16(d)).

I believe, then, that storing a client's file on microfilm or in a computer, in lieu of storing a boxed file, is permissible. Something to keep in mind is that I am fairly certain that we will be responsible for bearing the cost of retrieval if the client wants the file. The reason it's okay to give a client a floppy disk with stored e-mails, instead of printing them, is because of the "widespread availability of computers." 2002 Formal Ethics Opinion 5. Equipment to convert or view microfilm is perhaps not so readily available. Also, there seems to me to be a principled difference between storing e-mail electronically, which is already stored electronically, and scanning paper into a computer. I believe, then, that if we were to scan or store files on microfilm, and the client wanted his or her file, we would have to bear the expense of printing it. See *e.g.*, RPC 178 (1994) and RPC 169 (1994) (attorney who wishes to keep a copy of the file for his or her own records must bear the copying expense).

I believe this is what you were looking for. If you would like some follow-up research, or anything at all, please let me know.

ETHICS OPINIONS

- 2002 Formal Ethics Opinion 5
- 98 Formal Ethics Opinion 9
- RPC 234 (1996)
- RPC 209 (1996)
- RPC 178 (1994)
- RPC 169 (1994)
- RPC 133 (1992)
- RPC 16 (1986)

RULES OF PROFESSIONAL CONDUCT

- Revised Rule 1.1 Competence
- Revised Rule 1.15-3 Records and Accounting
- Revised Rule 1.16 Declining Or Terminating Representation
- Superseded Rule 10.2 Record Keeping and Accounting for Client Funds or Property

N.C. Gen. Stat. § 116B-53. Presumptions of Abandonment

APPENDIX J

Number in [] is actual from poll results
 Number in [] is calculated from info available & subject to change
 Number in [] is example only & subject to change

Analysis of Time Costs: Searching for Files & Documents

Example ONLY	Each Employee													Total
	# wks per yr conserv.	avg # hrs per yr	probab. empl.	# of hrs/yr (conserv.)	hrs/yr (probable)	Tot-group hrs/yr	Potential Loss in Profits (conservative)	Potential Loss in Profits (probable)						
AVERAGE	50	21	21	50	1042	1042	\$364,583	\$364,583						
\$350														
\$400,000														
0														
15000														
300														
25														

hr	yr	yr	sf	hrs/wk	hrs/wk	sf
\$200	\$180,000	0	125	15%	6%	26%
3000	241	14	14	13	15	14
17	9	25	10	6	15	20
14	15	19	18	13	15	14
20	16	20	16	14	15	14
20	40	20	40	25	35	19
23	25	28	29	417	26%	22%
5	60	50	0	10	0	20
40	10	20	40	10	25	30
10	45	30	10	345		

hr	yr	yr	sf	m/wk
\$100	\$81,000	\$4,050	143	167
3300	2665	90	50	90
280	30	60	20	5
10	200	90	210	40
80	120	40	80	120
50	50	150	200	150
50	200	150	50	200
150	150	150	106	1690

hr	yr	yr	sf	m/wk
\$68	\$67,500	\$6,750	115	106
4700	1690	150	30	90
60	90	30	60	90
30	30	30	30	90
600	600	150	50	200
150	150	150	106	1690

hr	yr	yr	sf	m/wk
\$68	\$67,500	\$6,750	115	106
4700	1690	150	30	90
60	90	30	60	90
30	30	30	30	90
600	600	150	50	200
150	150	150	106	1690

hr	yr	yr	sf	m/wk
\$100	\$81,000	\$4,050	143	167
3300	2665	90	50	90
280	30	60	20	5
10	200	90	210	40
80	120	40	80	120
50	50	150	200	150
50	200	150	50	200
150	150	150	106	1690

hr	yr	yr	sf	m/wk
\$68	\$67,500	\$6,750	115	106
4700	1690	150	30	90
60	90	30	60	90
30	30	30	30	90
600	600	150	50	200
150	150	150	106	1690

ADDITIONAL BENEFITS	1	2	3	4	5	6	7
from a HDMS filing system:							

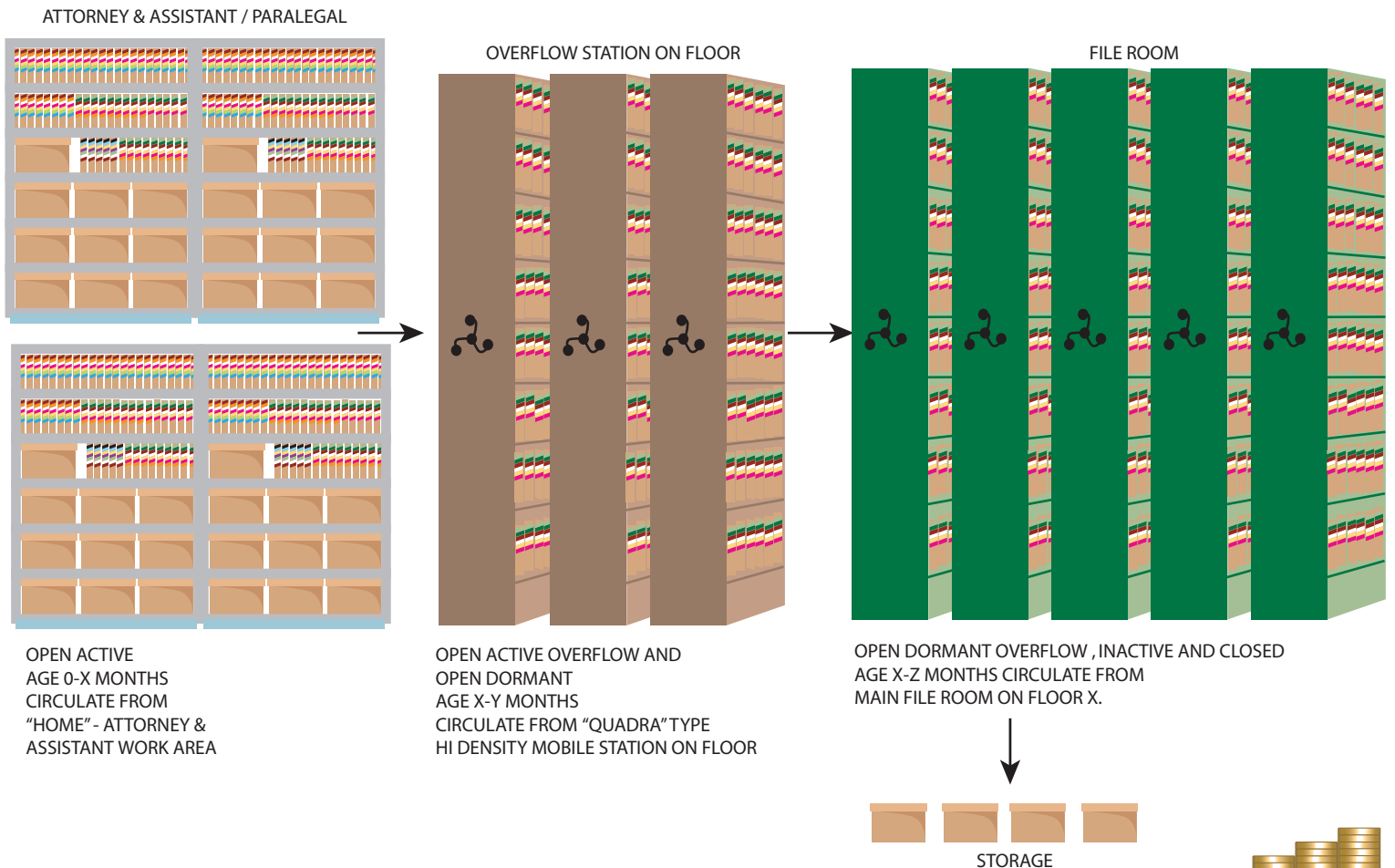
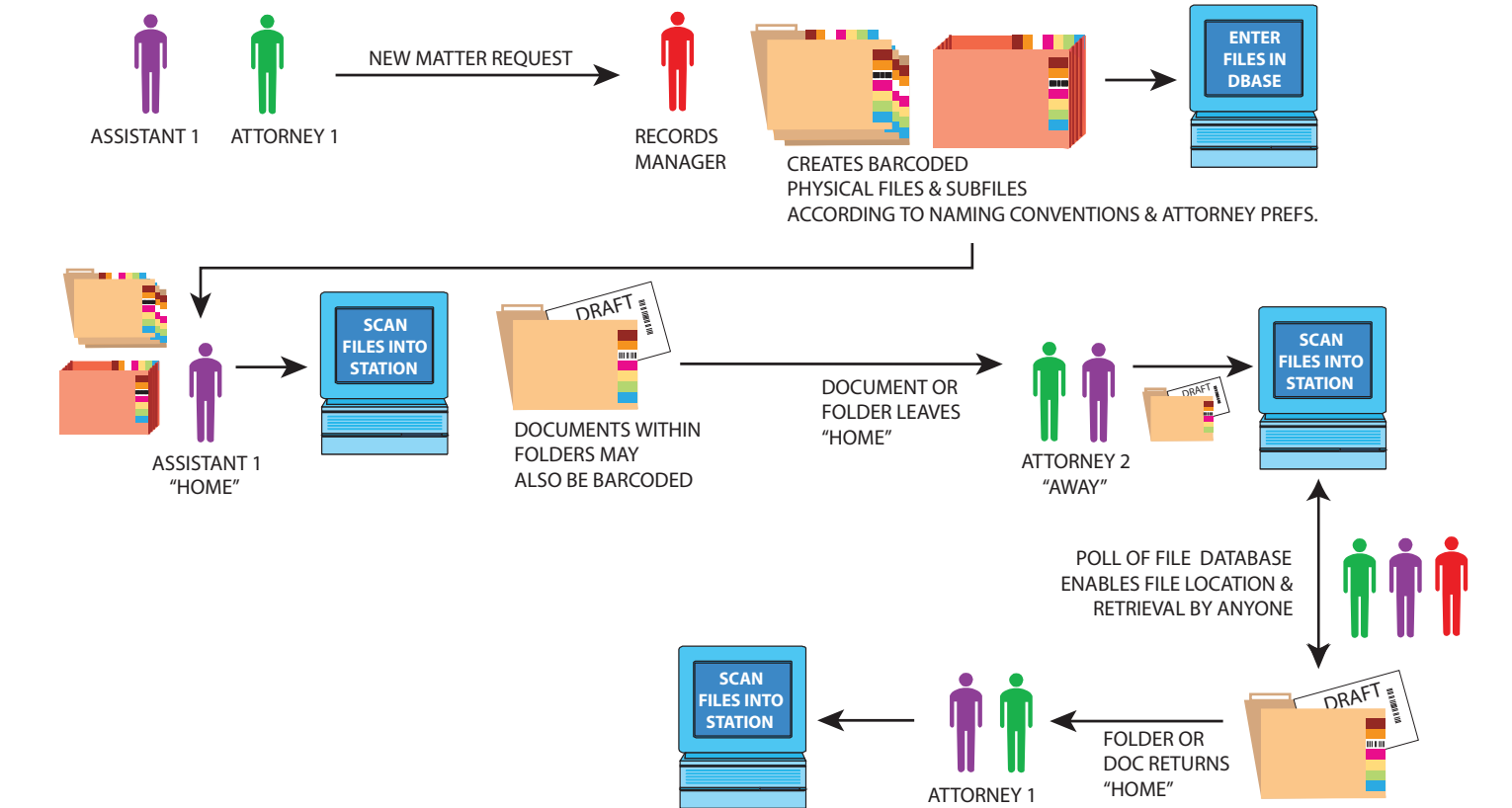
ADDITIONAL BENEFITS	1	2	3	4	5	6	7
from a HDMS filing system:							

ADDITIONAL BENEFITS	1	2	3	4	5	6	7
from a HDMS filing system:							

TOTAL ANNUAL POTENTIAL PROFIT LOSSES based on the invoice value of each hour lost searching for files and documents: \$1,618,626
 TOTAL POTENTIAL PROFIT LOSSES Projected for the next 5 YEARS: \$8,093,129
 An investment in a "Cadillac"-type Hi-Density Mobile Storage System to be written off in 5 years, incl. installation, software & software training time (lost profit factored in): \$450,000
 POTENTIAL INCREMENTAL PROFIT for the next 5 years FROM TRANSITION TO: AN ON-SITE HIGHLY EFFICIENT PAPER DOCUMENT FILING SYSTEM: \$7,791,629
 \$10,926,735
 More onsite filing space available. See report and attached "vision" floor layouts
 About 750 SF of workroom space can be reclaimed for use as workrooms (5)
 It will give those who may partially bill their inefficiencies a more satisfied client and peace of mind
 Cleaner offices & secure document storage = Atty's offices can be used for conferences with some clients = fewer conf. rooms needed
 Within the currently available entire office space about 24 rooms could be made available in the years to come for new Atty's and staff
 Thus ± 4000 SF can be reclaimed as 100% revenue producing space for e.g.: 8 new Partner Teams + 6 new Associate Teams
 The above listed benefits may allow for an additional gross income potential for the next 5 years, in the same space, of conservatively \$37,698,000
 * Value of 1 assistant hour = Salary paid for 1 hour @ zero productivity PLUS value of one hour's lost work product
 The Potential ROI for this transition is 3170%
 Partners who participate in this transition will contribute to the Firm's Potential Incremental Profit for the next 5 years an average of:
 The Partners that DO NOT participate may cause the Staff's average time lost for searching for files & documents to increase measurably
 EACH WEEK DELAY in implementing the above described solutions means a potential weekly loss in profit between \$330,235 and \$460,864
 \$31,703 and \$44,243



INTERNAL DOCUMENT FLOW AND TRACKING WITH HI-DENSITY MOBILE STORAGE



DOCUMENT CYCLE

Underlying structure:

Files should be broadly classified according to age/status:

TIME FRAMES TBD BY FIRM

Open Active (date of last activity \leq X months)
Open Dormant (date of last activity X-Y months)
Open Inactive (date of last activity +Y months)
Closed Matters

Closed Matters should be allowed to accumulate onsite only as long as necessary to fill up storage boxes.

Oldest Open Inactive matters should be moved offsite as space dictates.

Rationale:

Open Inactive files have not generated new billing or revenue for the Firm in $>Y$ months. Cost of space occupation is greater than storage and retrieval – they occupy space that new revenue-generating files could occupy.

Open Inactive and Closed matter files can be easily and economically recalled from storage through daily email auto-reminder in late afternoon for following morning's order cutoff time (9:00AM). Files ordered before cutoff time can be delivered same day without rush penalty charges.

Responding to a daily auto-reminder gives attorneys and assistants easy and timely request mechanism – they don't have to generate a special request unless it really is a rush.

Internal file tracking software and closed matter subfile indexing should make it easier to specify files for retrieval.

Document Cycle:

Presumes Document Collection & Retention Policies have been adopted and are in force.

1) Matter is opened and Client is informed of / chooses document retention options at time of Attorney engagement. Agreement is signed as part of Firm engagement letter policy. New Matter Request is sent to Records Manager.

2) Records Manager creates Parent File and Subfiles linked to Accounting through document tracking software.

- 3) Records Manager or R.M. Assistant creates Physical folders for file and subfiles with color coded labeling and send to requesting Atty Assistant.
- 4) Atty Assistant scans file folders into station to create the file's "home" location.
- 5) Open Active files are kept at Assistant station and in Attorney Office in Smart Shelving type units.
- 6) Open Active files are scanned into stations whenever they are moved from one practice area to another for purpose of location tracking.
- 7) File Manager or F.M. Assistant prints out file location report daily and does a "round" at the end of the day retrieving and re-filing documents & folders that can be returned to their "homes".
- 8) Open Active overflow- and Open Dormant files cycle according to age into Quadra type station on the floor.
- 9) Oldest Open Dormant files, Open Inactive, and Closed files repose in File Room.
- 10) Workrooms s/b reserved through Records Manager who moves all requested files into and out of the workroom. Open Active files return to Attorney practice area ("home"). Open Dormant or Open Inactive revert to Open Active once billable work hours are incurred, and are returned to Attorney practice area once the workroom reservation time has expired.
- 11) Client is reminded of his document retention agreement and Firm's policy at time of final invoice. Changes in preference s/b be authorized in writing only, by Client or Attorney. Records Manager is custodian of all authorizations.
- 12) Closed Matters sorted by File Manager or F.M. Assistant according to file retention agreement and Attorney preference, and indexed, and sent to storage.
- 13) At expiry of the retention period, Attorney (and Client, if nec) are notified. Attorney has a set timeframe (30-60 days) to authorize destruction, other disposition or to specify exception. Exception to destruction should be authorized by Managing Partner.

High Density Mobile Storage System

Estimated cost for project management, delivery, installation, software implementation and training: \$250,000

Can be delivered and installed very quickly.

Includes labor for, and cost of, conversion of existing file folders.

Installation and conversion can be done in “off hours” if desired– may take as little time as a weekend.

Includes database and software training.

May require structural support – estimate of cost includes allowance for engineering and reinforcement if necessary.

Installed components may be moved in the event of relocation.

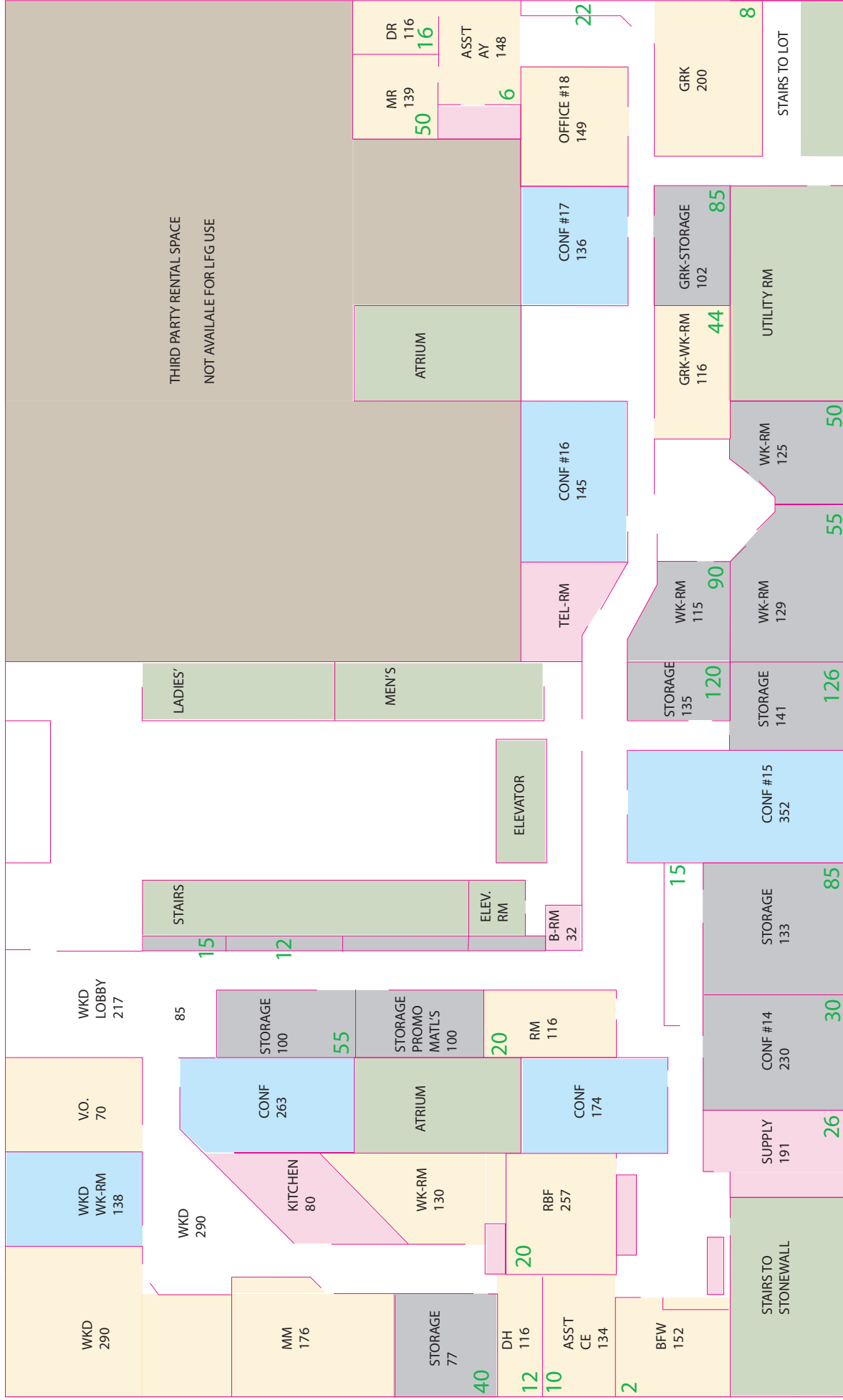
Capital equipment costs may be depreciated over 5 years.

Lockdown features can secure documents nightly.

File color labels can be generated on existing color copy equipment.

Software does not require system upgrade, but estimate includes allowance for 2 more terminals, or additional printer if necessary.

1st FLOOR



LEGEND:

REVENUE POSITIVE
 = Revenue Producing Personnel
 = Revenue Producing Space est <= 50% daily hrs utilization

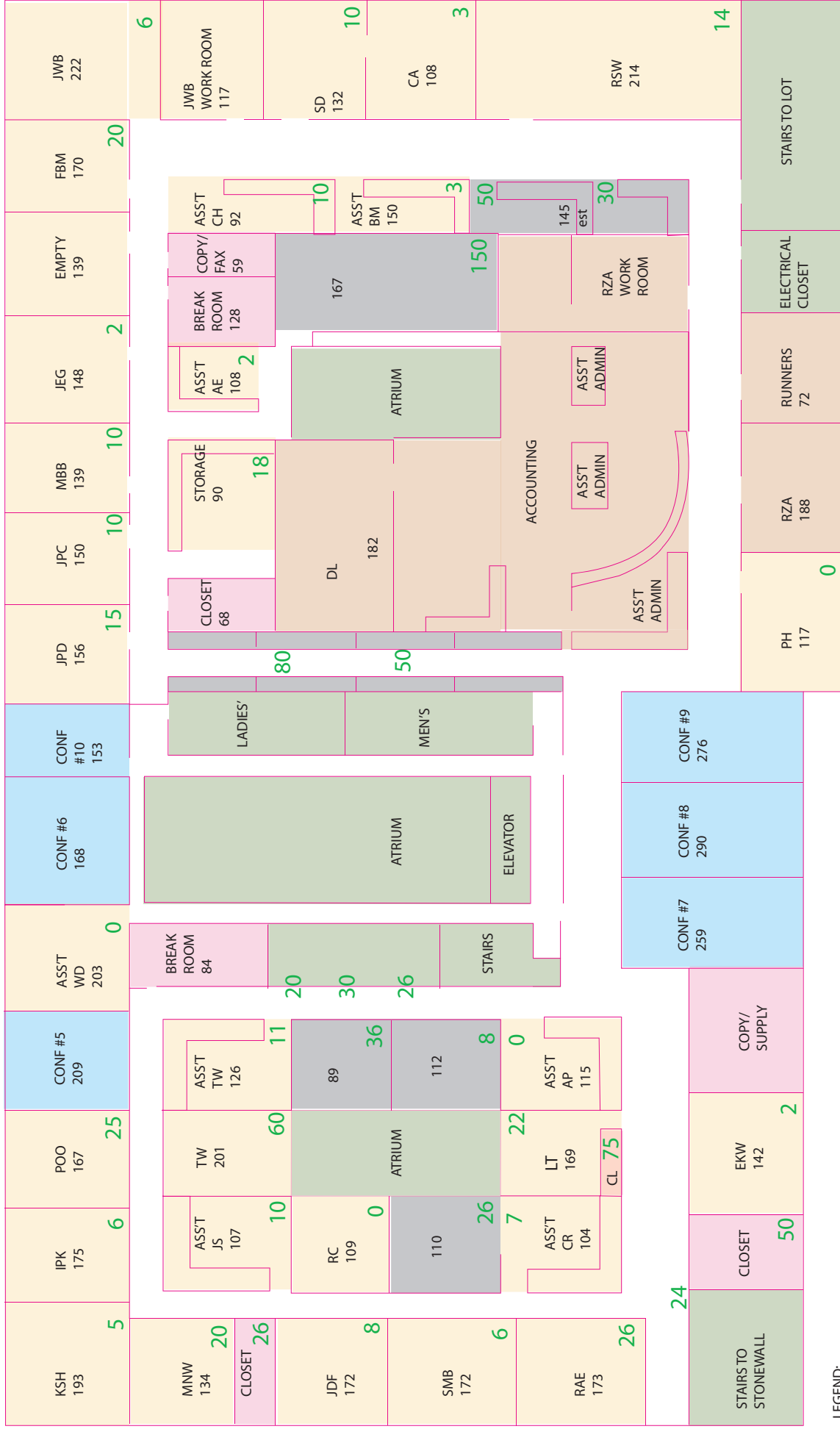
REVENUE NEUTRAL
 = Support Personnel
 = Structural/Utility
 = Support / Equipment / Supplies
 = Traffic

REVENUE NEGATIVE
 = Record Storage

Total Number (green) of Banker Boxes counted is about 1010



2nd FLOOR



LEGEND:

REVENUE POSITIVE

= Revenue Producing Personnel

= Revenue Producing Space est <= 50% daily hrs utilization

REVENUE NEUTRAL

= Support Personnel

= Structural/Utility

= Support / Equipment / Supplies

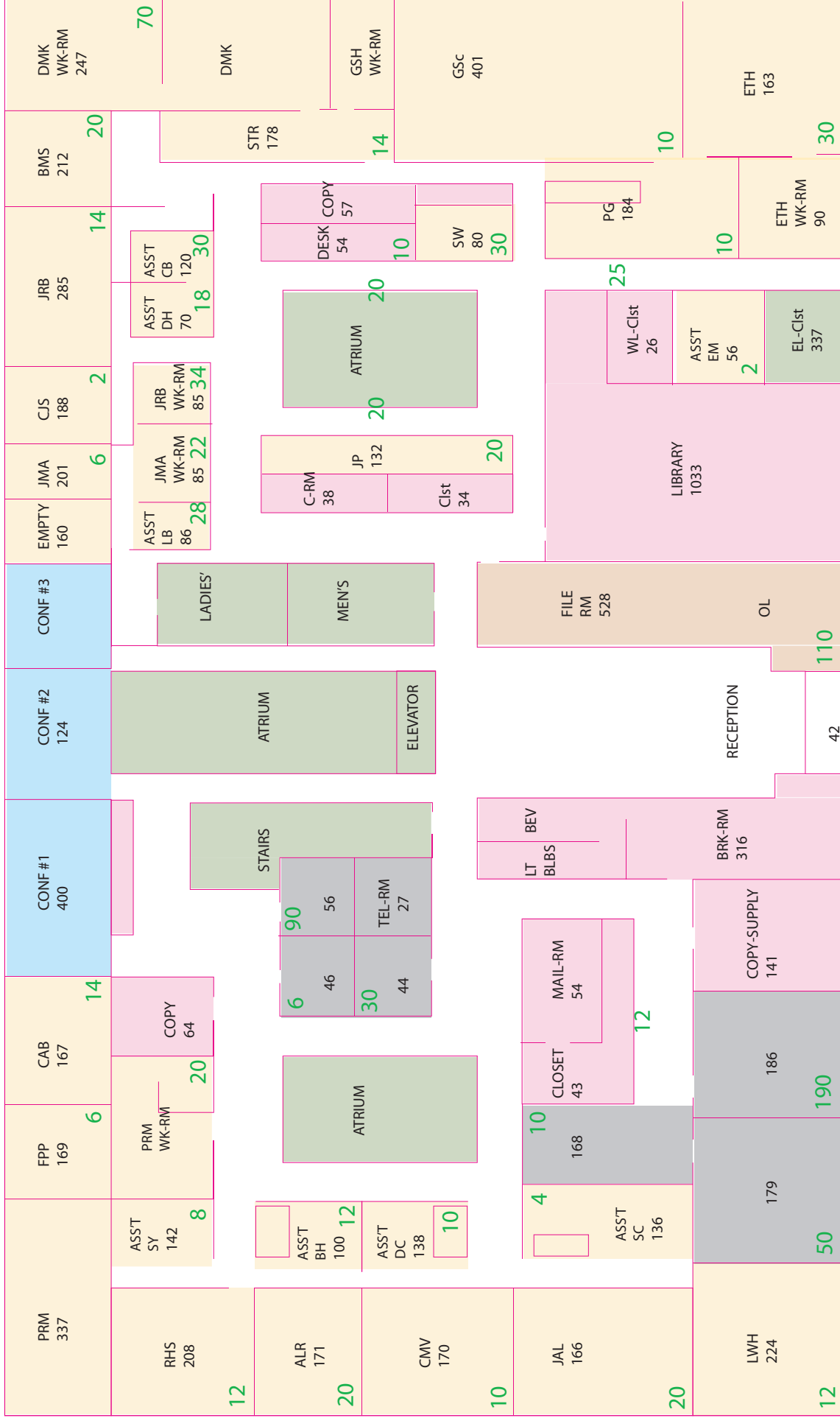
= Traffic

REVENUE NEGATIVE

= Record Storage

Total Number (green) of Banker Boxes counted is about 1000

3rd FLOOR



LEGEND:

- Yellow = Revenue Producing Personnel
- Blue = Revenue Producing Space est <= 50% daily hrs utilization
- Grey = Support Personnel
- Light Blue = Structural/Utility
- Light Green = Support / Equipment / Supplies
- White = Traffic

REVENUE POSITIVE

- Yellow = Revenue Producing Personnel
- Blue = Revenue Producing Space est <= 50% daily hrs utilization

REVENUE NEUTRAL

- Light Blue = Support Personnel
- Light Green = Structural/Utility
- Light Pink = Support / Equipment / Supplies
- White = Traffic

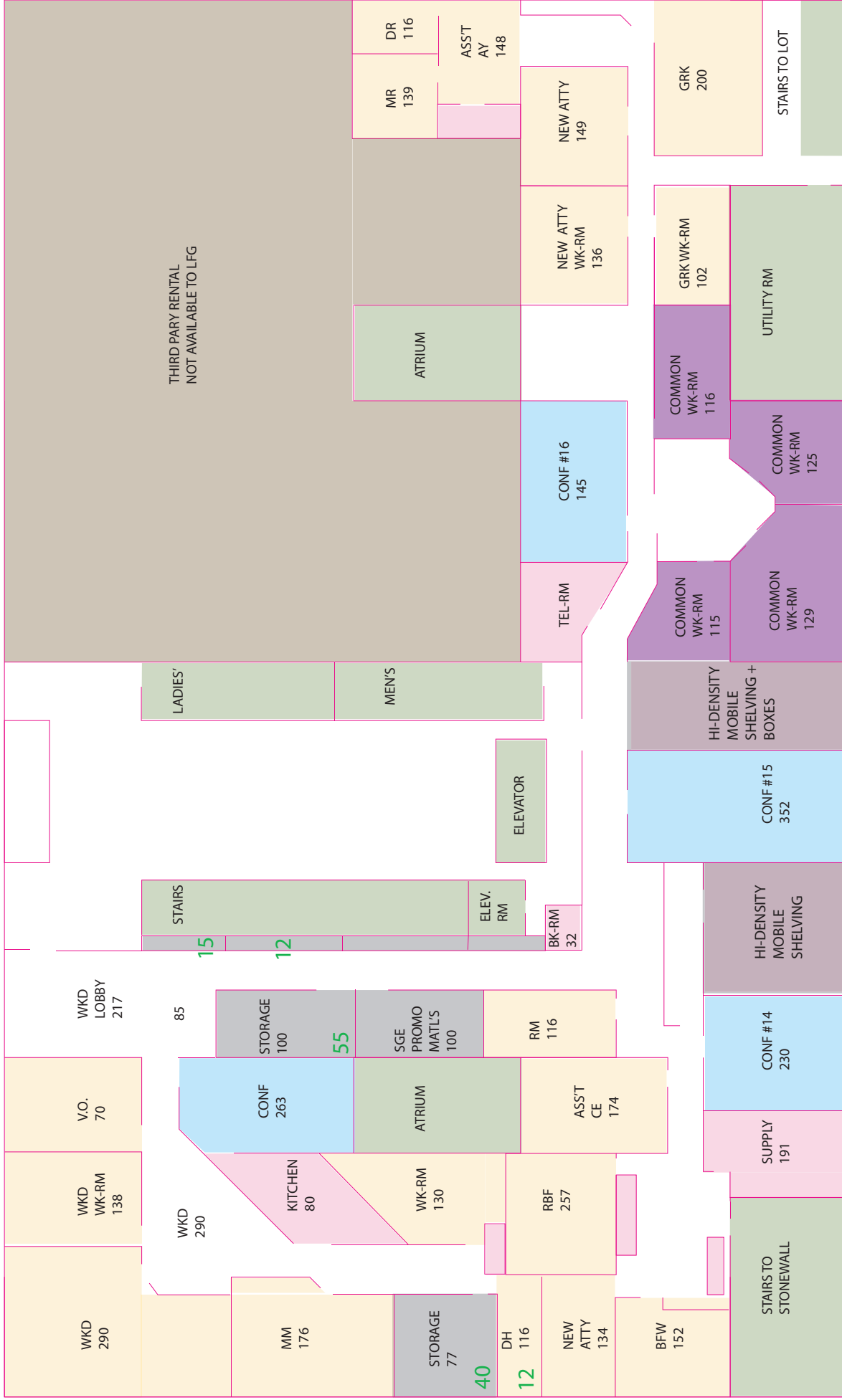
REVENUE NEGATIVE

- Grey = Record Storage

Total Number (green) of Bankers Boxes counted is about 1070



VISION: 1st FLOOR WITH FILE ROOM AND HI-DENSITY MOBILE SHELVING SOLUTION



LEGEND:

- REVENUE POSITIVE**
- Yellow = Revenue Producing Personnel
 - Blue = Revenue Producing Space est <= 50% daily hrs utilization
 - Purple = Revenue Producing Space est <= 50% daily hrs utilization

- REVENUE NEUTRAL**
- Light Green = Support Personnel
 - Light Blue = Structural/Utility
 - Pink = Support / Equipment / Supplies
 - White = Traffic

- REVENUE NEGATIVE**
- Dark Green = Record Storage
 - Dark Purple = Hi-Density Record Storage

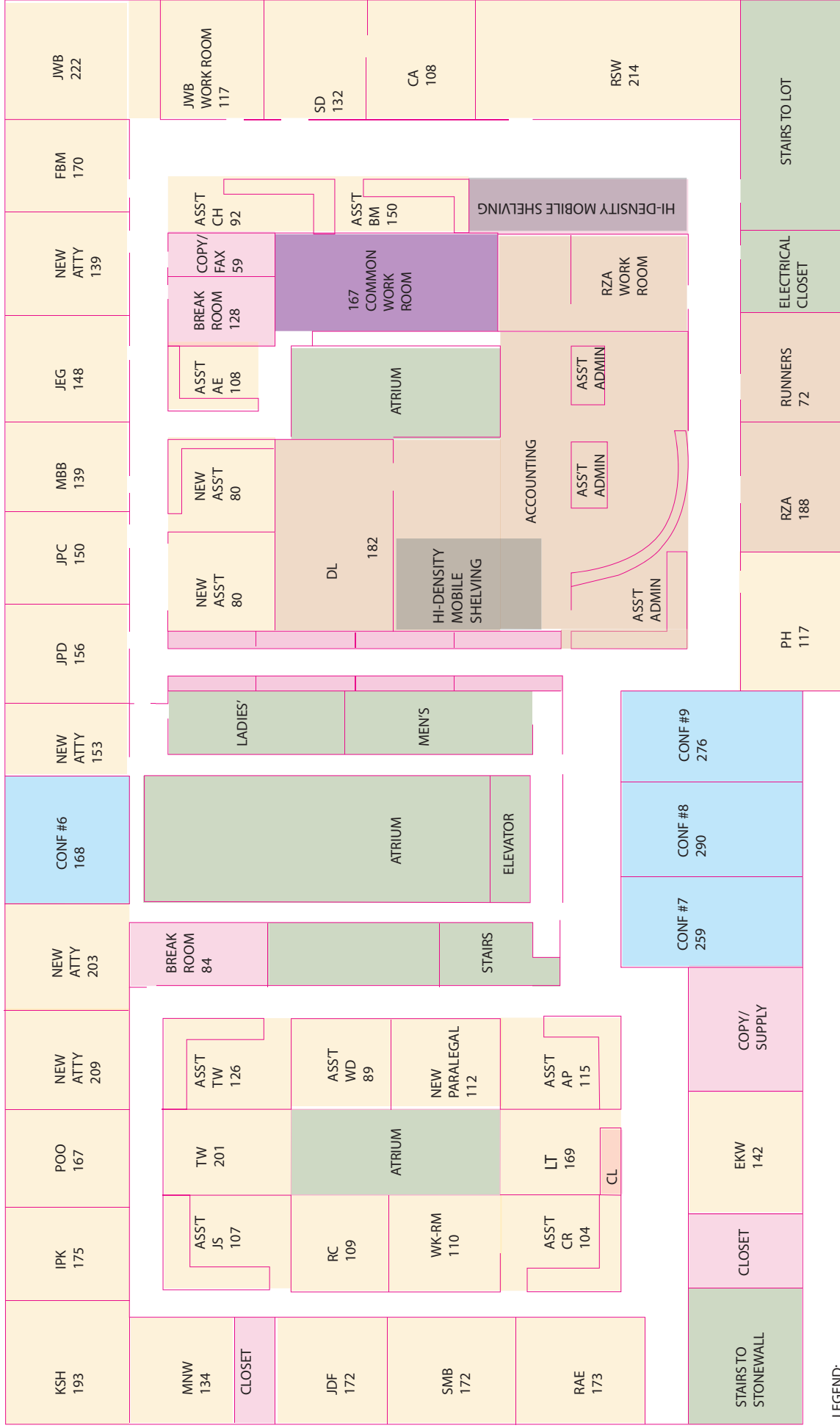
Potential Space-use changes:
 310 SF from CONF to Atty-Team Work Space
 116 SF from Atty-Team WS to Common WK-RM
 471 SF from Storage to Common WK-RM
 230 SF from Storage to CONF RM
+NO MORE BOXES IN PUBLIC SPACES



PROFIT COACHING INC.

VISION: 2ND FLOOR WITH FILE ROOM AND HI-DENSITY MOBILE SHELVING SOLUTION

FLOOR LAYOUT 5



LEGEND:

- REVENUE POSITIVE**
 - Yellow: Revenue Producing Personnel
 - Light Blue: Revenue Producing Space est <= 50% daily hrs utilization
 - Purple: Revenue Producing Space est <= 50% daily hrs utilization
- REVENUE NEUTRAL**
 - Orange: Support Personnel
 - Green: Structural/Utility
 - Pink: Support / Equipment / Supplies
 - White: Traffic
- REVENUE NEGATIVE**
 - Dark Purple: Hi Density Record Storage
 - Dark Green: Hi Density Record Storage

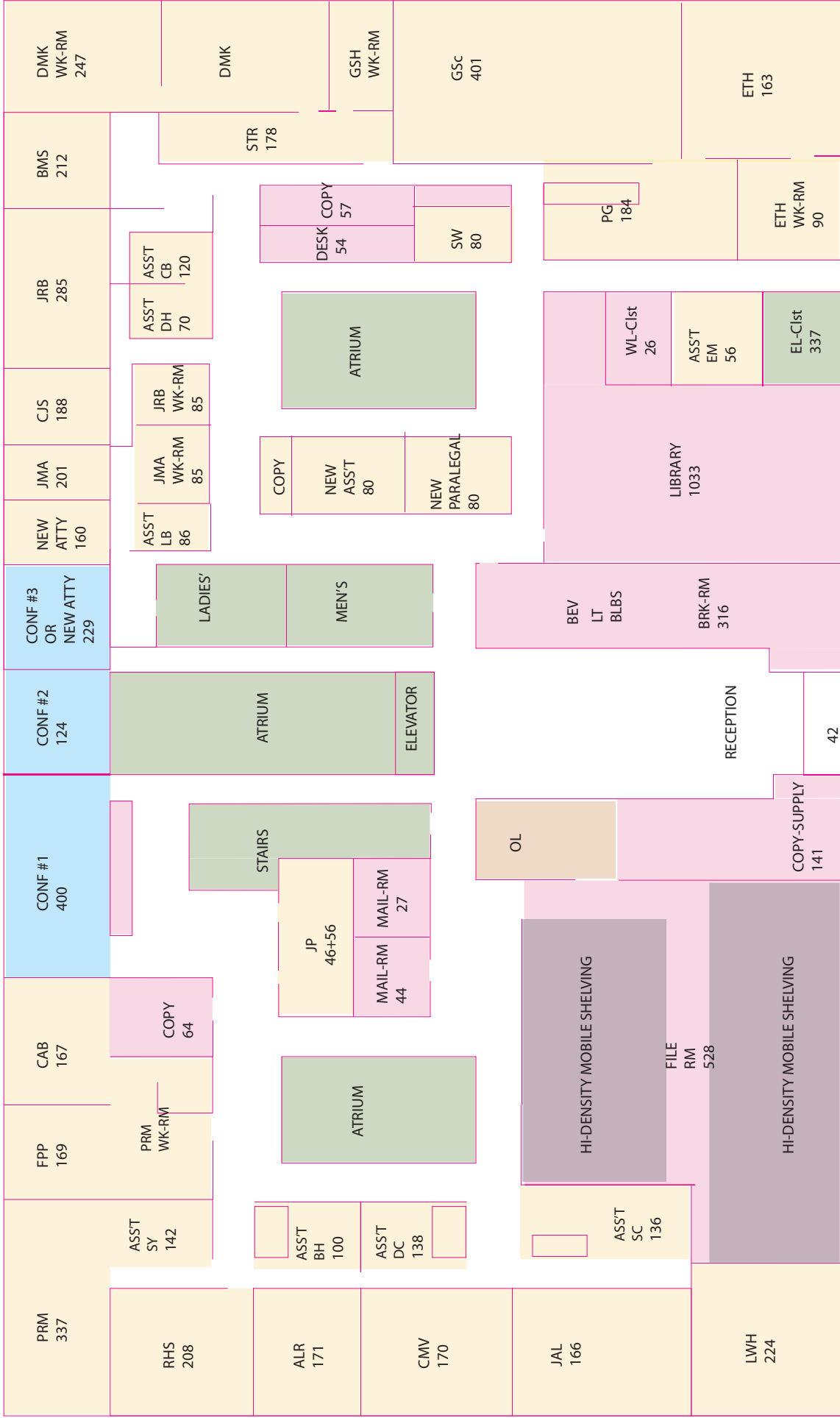
Potential Space-use changes:
 362 SF from CONF to Atty-Team Work Space
 471 SF from Storage to Atty-Team WS
 167 SF from Storage to Common WK-RM

+ NO MORE BOXES IN VULNERABLE PUBLIC SPACES



VISION: 3rd FLOOR WITH FILE ROOM AND HI-DENSITY MOBILE SHELVING SOLUTION

FLOOR LAYOUT 6



LEGEND:

- = Revenue Producing Personnel
- = Revenue Producing Space est < / = 50% daily hrs utilization
- = Support Personnel
- = Structural/Utility
- = Support / Equipment / Supplies
- = Traffic

REVENUE NEUTRAL

- = Support Personnel
- = Structural/Utility
- = Support / Equipment / Supplies
- = Traffic

REVENUE NEGATIVE

- = Hi Density Record Storage

Potential Space-use changes:
174 SF from Storage to Atty-Team Work Space

+ NO MORE BOXES IN PUBLIC SPACES

