

# Make More Money – Automated Drafting Can Transform Your Practice

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# Make More Money – Automated Drafting Can Transform Your Practice

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- The PowerPoint is available for download from the web console during the program.
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- There is no CLE or CPE for this program, but you will be sent a certificate of attendance from the webinar system. We cannot control those certificates so if there is an issue we cannot assist.
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# **Make More Money – Automated Estate Plan Drafting Software**

**How to Practice Safer,  
More Efficiently, More  
Profitably, and More  
Enjoyably**

# Agenda:

## Automated Drafting Software

- Why adopt automated drafting software?
- How automation can transform your practice.
- Onboarding automation.
- Best practices to leverage automation.
- Selecting an automation partner/provider.
- Expand your practice with automation.

# **Why Should You Adopt Automation?**

**Lots of Benefits;  
But Lots of  
Resistance**



# Automation is Vital to Firm Success

- The largest law firms have invested heavily in Tech. See <https://www.lexisnexis.co.uk/blog/future-of-law/50-legal-technology-stats-you-need-to-know-for-2022>;
- Overall, however, law firms lag in investing in technology. Consider:
- Roughly 75% of lawyers and other legal timekeepers have reported that their law firms don't equip them with the automation tools that they need to complete their jobs effectively.
- More than 80% of legal timekeepers say they don't think automation is a firm priority.

# Automation is Vital to Firm Success (cont'd)

- The lack of automation adoption in the legal industry results in lawyers spending much more time than they would like on nonbillable administrative tasks. For example, more than 40% of timekeepers reported spending more than of 35% of their time on nonbillable work. That adds up to at least 700 hours per year, or at an average of \$250/hour, a loss of \$175,000 of potential revenue of time otherwise spent “at work”.
- See:  
[https://www.americanbar.org/groups/journal/articles/2021/there-s-room-for-improvement-in-legal-industry-s-automation-adop/ \]](https://www.americanbar.org/groups/journal/articles/2021/there-s-room-for-improvement-in-legal-industry-s-automation-adop/)

# What Is Automation in an Estate Planning Practice?

- Implementing software programs specifically designed to replace routine, low-value tasks.
- Enhancing high value drafting and planning with higher quality and lower risk of errors.
- Avoiding drafting mistakes and malpractice risk.
- Creating consistent high-quality firm documents agnostic of “who” is the client relationship attorney.
- Creating consistent and efficient operational process.
- Facilitating onboard of new attorneys and staff to create high value work-product in a shorter time frame.

# Document Consistency and Automation

- The majority of law firms have no consistent policy/mandate about firm consistent forms. Most partners use whatever forms they want, usually the forms they've worked with for years and decades.
- Why is that? Consider the impact on quality control, economies of scale, and practice risk?
- If one partner's tax allocation clause is wrong, might plaintiff's counsel ask to see the tax allocation clauses in other forms in the practice? If they are different and correct is that an assured loss?
- Document consistency, quality control and economies of scale can come from firm mandated documents, whether standard forms or document generation.

# Why Automate

- Higher and more consistent quality documents.
  - How many people in your firm devote how much time to updating documents you use for drafting? Can that compare to a document automation system that has a full-time team of professionals devoted to document updates?
  - How many people in your firm use your form documents and provide input as to corrections and improvements? How often does that happen? Can that compare to a document generation system where every subscriber can and many do email input of corrections and suggestions to a full-time team that can evaluate them? Even the largest estate planning practice in the country has a fraction of the number of users as any document generation program. Consider this from a malpractice protection perspective.

# Why Automate

- Quicker and more efficient document production.
  - Yes, you can produce documents quickly using your forms but how many options are you affording clients?
  - Can your most efficient form process actually compare to document generation? Probably not.
- Reality check.
  - Do you monitor and account for staff and administrative time on document preparation or processing? If not, you are not seeing the entire picture.
  - Document generation software will can reduce the amount of admin time.
  - Document generation can reduce the time spent updating forms.

# Why Automate

- Align the highest and best use of time with where the client sees the highest and best value. Does any client actually appreciate the time attorneys in your firm spend drafting, reviewing and revising documents? How could they possibly know what is happening inside the black box?
- Make low-client value / high-importance tasks more efficient.
- Improve experience of high-client value interactions with the lawyer. If your/your attorneys spend less time drafting they can spend more time interacting with clients, developing a plan, or crafting custom memorandum that address client specific issues. Which use of time do you think clients will see greater value in?
- Lawyers will have greater satisfaction in their practice, because they will devote more of their time to consulting with clients and designing plans, rather than drafting documents.

# Value of Automation in a Client Centered Practice

## Your Process...



## Where the Client sees Value...



# Deirdre's Perspective – People Centered Profitable Practice

- I have a client-centered practice where the client's perspective of "value" is at the center of all we do. You can do well by doing good. A fundamental question - Is whatever we doing the best value to the client? As an example, does driving to the office versus a meeting over Teams offer value to the client? In many cases clients do not want to drive to an office. So, what can we do? Provide web-based meetings.
- **Marty** Comment: I have not had an in-person client meeting other than a signing since March 2020. There has been no noticeable negative impact.
- **Deirdre** - I would like to work from wherever I want. I want to hire the best people regardless of geography. I recognize the value of a balanced work and personal life. Document automation manages routine tasks, shifts repeated tasks to highly trained paralegals, motivates attorneys with "more interesting work", removes geography from client service, and allows employees a flexible work schedule while maintaining high-quality client interaction.

# Deirdre's Perspective – People Centered Profitable Practice

- A client-centered practice is a shift from focusing on drafting to focusing on client needs and value. Automation helps do this. While the document itself is required, it merely memorializes the highest value aspects of a client-centered practice where the key deliverables are guidance, design of planning, and client interaction.
- A law practice is a business. Fundamental to a successful business is profitability. Profitability is the difference between what you are paid for a service and the cost of providing that service. Automation drives down the costs of providing a service and increases profitability. Data analysis of the real cost of providing a service allows me to set flat fees with built in minimum profitability.

# Marty's Case Study

- Some years ago, I delivered a Heckerling Wrap Up address the topic of which was the future of estate planning practice. I used the following case study.
- A client returned after 10 years to revise all documents. The cost of the work was about the same in both instances, despite significant increases in billing rates over 10 years.
- More telling, was that 10 years earlier 70% of the time spent was drafting, revisions, reviews and revisions to documents. The recent engagement reflected 70% of the charges were for client facing/centered activities: meetings, phone calls (this was pre-Zoom) and memorandum to present planning ideas to the client.
- What was the distinguishing factor? Automation and accompanying streamlining of the process.

# Artificial Intelligence is Transforming Estate Planning NOW!

- Financial planning software is now available that incorporates AI so that financial advisers can flow chart a clients estate plan, provide automated review of and summaries of estate planning documents and more.
- Consider how clients and prospective clients will view the attorney's role when their financial adviser can provide the above? What if the financial adviser provides the above at no cost?
- Consider that the technology of online document providers is getting more powerful.
- If estate planning attorneys don't adapt technology to make their practices more efficient their roles will decline. No matter how busy you may be today, look at what the future holds?

# Objectives and Objections

Objective	Objection	Consideration
Maximize Profit	I am too busy to spend time learning something new.	If you invest time, you can increase revenue and profits.
High Quality	I have spent years creating the best documents.	- Team v. You. - Consistency of documents produced by others.
Maximize Staff	I am the only one who can do X.	Free up your time by leveraging staff on a consistent process.
Expand Practice	Not comfortable doing X.	Community of advanced practitioners, learning resources, starting language.

# Automation Upgrades Your Practice

- Minimizes sloppiness such as another client's name or mis-numbered articles.
- Minimizes errors such as old language or incomplete language.
- Leverages staff by simultaneous training on process and output, creating a shorter review process, and spending more hours on more profitable items.
- Expands your client service offerings.
  - Are you offering clients non-reciprocal SLAT plans? How many differences have you integrated into your documents between each SLAT?
  - Are you preparing one SLAT and one SPAT/hybrid-DAPT or DAPT? Do you have the capability to easily toggle to whichever combination of documents best suits your clients?
  - Can you readily complete a SPAT and a Hybrid DAPT in different trust friendly jurisdictions using your form base?
  - If you want to incorporate insurance trust provisions in your SPAT do you have to open and paste from an ILIT form or just click a button?

# **How Automation Transforms Your Practice**

**It Should be  
Transformative!**



# More Money

- Document automation can result in:
  - Increasing your profitability on flat fees.
  - Increasing your team's overall billable hours by delegating billable tasks to non-attorneys.
  - Reducing in the time from engagement to execution.
  - Duplicating yourself by leveraging staff.
  - Reducing training time.

# More Money – Case Study – Current State – Low Profitability

- **Current State** – Inefficiencies lead to wasted time. Time is an attorney's sole means of generating revenue, and wasted time directly translates to loss of revenue.
- Lost time in consultations and “I can’t bill for admin work”.
- Your attorneys do all estate plan drafting but can’t get to other “attorney only” work. Clients call looking for their work.
- On review, there are mistakes and errors such as wrong document used, prior client’s name, mis-numbered paragraphs. If this goes out, it is embarrassing and reduces client confidence. If you catch it, attorney time is spent “word processing” and “proofreading”.
- Constant attorney “project management” by following up with the clients and other team members on “where is the Jones file at?”
- You can’t answer the question “how profitable are your estate planning / elder law planning matters”.

# More Money – Case Study – Future State – High Profitability

- **Future State** – Attorney time is spent on guidance, plan design, and high-level review. Paralegal and legal assistant time is spent producing high quality consistent documents and managing the non-client facing aspects of the engagement.
- All time for the engagement is captured. Target profitability set.
- Attorneys focus on “attorney only” work. Paralegals and legal assistants communicate with the clients, address basic questions, manage client expectations on timing, and work through a checklist to ensure nothing falls through the gaps.
- You review a consistent set of high-quality drafts to focus your time on the elements of the drafts that matter most to the clients.
- Legal assistant take on the “project management” role by knowing at all times “where is the Jones file at?” and actively moving it forward.
- You know and grow profitability on planning engagements.

# Higher Quality

- Consistent work product across the organization by each attorney using the same form bank. Consider how this compares to the practice in most firms where each partner is permitted to use whatever forms he or she wishes to.
- Streamlined internal review process since everyone will be familiar with the same forms. Also, form provisions will be pre-vetted by the software company.
- Third party responsibility for legal updates with full-time staff dedicated to updates. This doesn't negate your role as attorney, only enhances it. You still review all documents and can modify as you choose, it just increases the safety of your documents.
- Consider the “crowd sourcing” aspect of using an automated drafting system. There are thousands of attorneys across the country making suggestions to improve or enhance the documents.

# Higher Net Worth Client Case Study - 1

- You determine that the plan should be two non-reciprocal SLATs, perhaps one will have a SPAT provision to provide greater access and further differentiation for purposes of the reciprocal trust doctrine.
- You opt to put each SLAT in a different trust friendly/DAPT jurisdiction, say Nevada and Alaska, for the SPAT and to further differentiate them for reciprocal trust doctrine purposes.
- There will be note sales of interests in the family business to each SLAT.
- You will use a defined value mechanism for each sale. And to make the transactions different and provide security on an audit use different mechanism for each sale. Husband's SLAT will spill over to a GRAT. You opt to put the GRAT in a third trust friendly jurisdiction with a different trustee to help support the integrity of the transaction. This might be done in South Dakota. [ignore for this discussion CCA 202152018 Release Date: 12/30/2021 which might change this].
- For wife's SLAT you'll have a spill over to an incomplete gift trust.

# Higher Net Worth Client Case Study - 2

- To address Powell you opt to create a trust in the client's home state of Texas (you practice in New York) that will receive a gift then to which the clients will sell special voting membership interests that control distributions, liquidations and the ability to modify the operating agreement provisions concerning these two points.
- The client's insurance consultant would like to sell life insurance into each SLAT so you need to incorporate insurance provisions in each.
- Each SLAT should be a directed trust.
- To differentiate the SLATs you will have different Crummey powers, different powers of appointment, different distribution provisions, etc. in addition to the points above.
- Note that you will have co-counsel in every jurisdiction in which you do not practice but you would like to retain the work in your firm and capture as much of the billing as feasible.
- Can you create the above plan now in a cost effective manner? Can you draft the array of documents using the various state laws required by the plan?

# Higher Net Worth Client Case Study - 3

- With document generation software you can:
- 1. Select non-reciprocal SLATs forms that have all differences built in automatically.
- 2. Draft documents for use in Texas, Nevada, South Dakota and Alaska by clicking a button. Yes, you will have co-counsel but consider how much less costly that process will be, and hence more palatable to the client, if you present co-counsel in each state a document already drafted that reflects that state's law.
- 3. Add insurance provisions by clicking a button.
- 4. Readily customize and tailor the documents, e.g., adding loan provisions to each trust to provide further access by the clients by clicking a button, ditto for tax reimbursement clauses, and other provisions. Can you achieve that level of customization and efficient tailoring with your forms?
- Are you encouraging planning steps that might not be optimal or tailored to the client because you don't have the ability to produce the documentation? Are you modifying forms from another client when you have one-off situations that are not met by your firm forms (if you have firm forms)?

# Onboarding Automation

# Your Software Reflects Your Practice

- Every attorney has their own internal “best practices” on client interactions, client communications, and internal responsibilities. You may do all your own drafting or have a staff you can leverage. You may prepare detailed summaries and cover letters or simply send an “enclosed please find letter”.
- While you must give up “pride of drafting” to realize the benefits of document automation, you should not fear that with document automation your client service will lose the uniqueness that your practice brings to your clients.
- We believe that you actually do not lose the pride of drafting but rather enhance the pride of more creative and tailored planning and can focus the drafting efforts on tailoring documents to unique client needs rather than massaging provisions that you can obtain with a click of a button.

# Integrating Automation

- No document automation software will give you access to every document you may want.
- The goal is to leverage efficiencies in the *all* the documents that the document automation software and create Firm “source” or “specimen” documents to supplement those that the document automation software provides.
- We have a memo of “standard modifications” we make to ILS documents so that we don’t have to custom draft changes that we commonly use that the software may not address, e.g., a trust for siblings.
- *Caution* – To maximize the investment the document automation software you should commit to using the document automation software for all your documents that they support, not take an approach of “I will use this for Wills but not Trusts”.

# Preparing your Practice For Automation

- Before onboarding document automation software, take time to put your practice on paper. Some questions to ask yourself and your team:
- What is your process?
  - People
  - Timing
  - Output
- What do your documents look like?
  - Mandatory terms
  - Look (font, spacing)
- Add-Ins document
  - Your customizations / differentiators

# 4 Days Of Investment – Case Invest In Onboarding – This Is Meant As A Model Onboarding Workflow

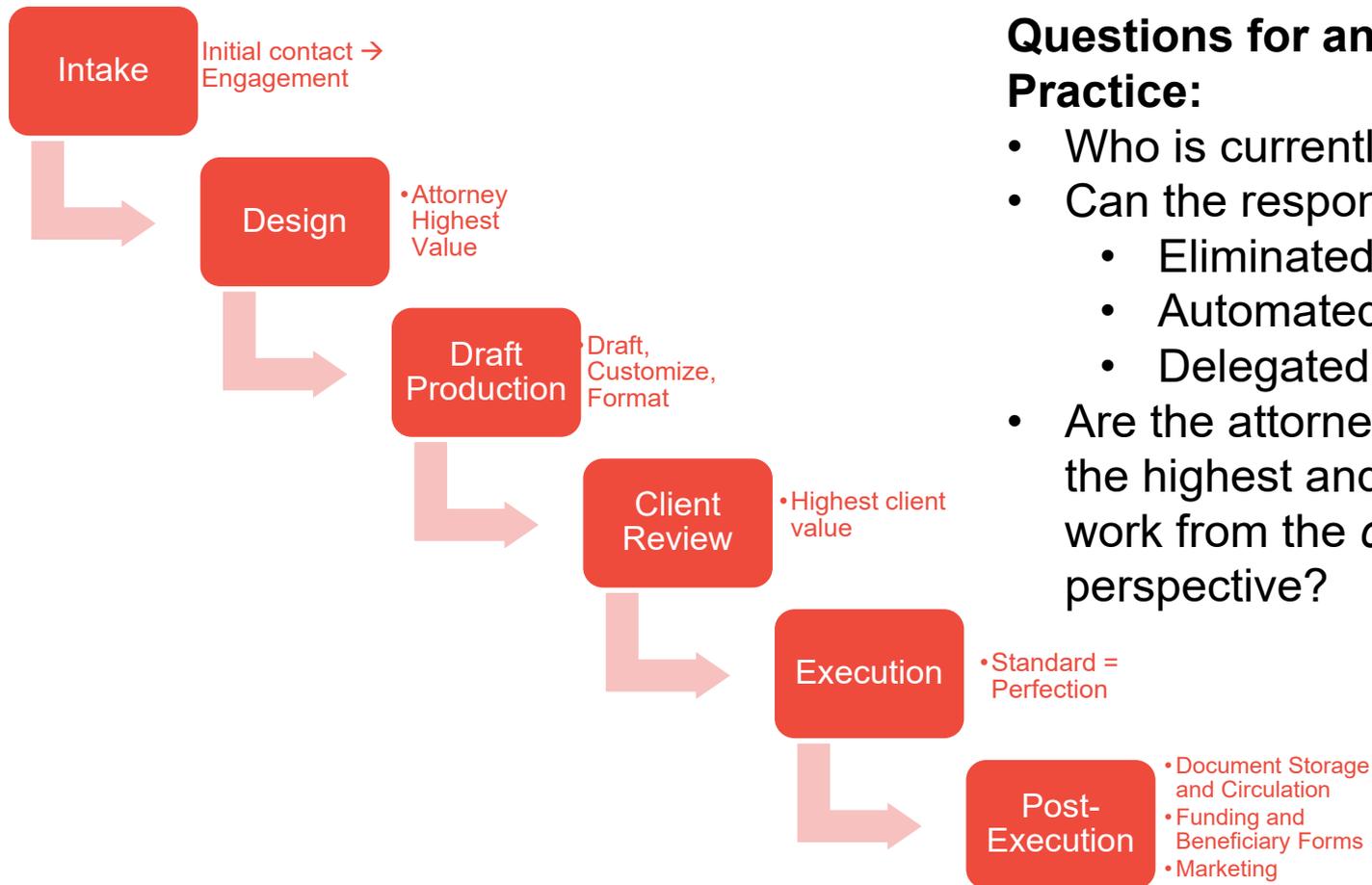
No.	Action	Hours
1	<ul style="list-style-type: none"> <li>- Your Online Document Production Training.</li> <li>- Produce simple test estate plan (do your own plan).</li> </ul>	4 - 5
2	<ul style="list-style-type: none"> <li>- Customize document profiles for the most common document package (e.g. married with kids).</li> <li>- Create first document package.</li> <li>- Create list of needed (1) document profiles, (2) packages.</li> </ul>	4 - 5
3	<ul style="list-style-type: none"> <li>- Create additional document profiles.</li> <li>- Create additional document packages.</li> <li>- Create Answers Sheet Library.</li> </ul>	4 - 5
4	<p>Create Implementation Plan:</p> <ul style="list-style-type: none"> <li>- Process Overview.</li> <li>- Staff roles.</li> <li>- Staff training schedule.</li> <li>- List automated documents and packages and resource locations.</li> <li>- Cut Over Date.</li> </ul>	4 - 5

# Leveraging Automation

Associates and Para-  
Professionals are Historic  
Means of Leverage – **Tech**  
**is the New Leverage**

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# The Importance of Efficient Process in a Modern Practice



## Questions for an Efficient Practice:

- Who is currently responsible?
- Can the responsibility be:
  - Eliminated
  - Automated
  - Delegated
- Are the attorneys engaged in the highest and best value work from the *client's* perspective?

# Paralegal Leveraged Case Study

## Document Generation Leveraging Paralegal and Assistant Roles

The steps here track the chart “The Importance of Efficient Process in a Modern Practice”

# Legal Services, Modern Challenges

- From a marketing perspective many clients don't have existing advisers and find the attorney from the internet. That is a different market. They google search and see scores of law firms. You want to make it quick and easy for these clients. Let prospects know step by step how the process will work: e.g., Consult over Zoom, etc. We have detailed process and automate everything we do with the files.
- There are now non-attorney service providers in the areas of Document Drafting, Estate and Trust Administration, and Medicaid applications.
- We all face challenges attracting, training, and retaining high quality staff.
- We need to accept the shifting paradigms from in office to virtual.

# Profile Client

- Found you on Google.
- Tyrell and Simone Williams (ages 55 and 53).
- New Jersey Residents.
- Children:
  - Morgan Williams – married physician assistant.
  - Chase Williams – single software engineer.

- Assets:

	Joint	Spouse 1	Spouse 2
House	\$ 750,000		
Bank Accounts	\$ 30,000		
401k / IRA		\$ 650,000	\$ 250,000
Brokerage	\$ 600,000		
Life Insurance		\$ 1,000,000	\$ 500,000
	<b>\$1,380,000</b>	<b>\$1,650,000</b>	<b>\$ 750,000</b>
		<b>Net Worth</b>	<b>\$ 3,780,000</b>

# Intake - Client Consultation (Attorney)

- In advance of consultation (via email with attachment or link to online form):
  - Family Questionnaire, and
  - Financial Questionnaire.
- Consultation via Teams or Zoom.
- Post-Consultation client communication prepare from existing form document\*:
  - Summarizing meeting and plan design,
  - Communicating fees and engagement process, and
  - Requesting fiduciary contact details.
- Email to legal assistant to engage client.
- *Estimated time: 1 -2 hours.*
- *Generated from Firm forms not currently in the document automation software.*
- **Marty** – we use a very similar approach although we have not been using e-signature for billing agreements and it's a brilliant idea and we may start doing that next week. However, I would still email a PDF of the billing agreement to the client so they cannot say they did not see it.

# Intake - Client Engagement (Assistant)

- Prepare engagement letter from information supplied in the Post-Consultation client communication.
- Transmit Engagement Letter via DocuSign and manage return of engagement letter and payment of retainer.
- Open file in billing system and client project management system.
- Upload Questionnaires to document management system.
- Notify the attorney that file is ready for drafting.

# Design - Estate Plan Outline (Attorney)

- Enclosure Letter\*
- Disclaimer Will – Prepare Answer Summary
  - Summary
  - Flowchart
- General Durable Power of Attorney – Add parties to Answer Summary
- Health Care Power of Attorney - Add parties to Answer Summary
- Family Guidance Letter\*
- Memo to change beneficiary designations for Retirement Accounts and Life Insurance\*

# Design - Other Document Package Examples

- **Document Package** - Group of documents based on a combination of Profiles in the automated drafting software and Firm created “source” or “specimen” documents.

## **GST Will**

- Three Trust Will.
- Will Summary.
- Power of Attorney.
- Living Will.
- Advanced Directive.
- Standby Guardian.
- Beneficiary Designation Memo.
- Enclosure Letter.

## **Revocable Trust**

- Pour-Over Will & Summary.
- Rev Trust & Summary.
- Trust Funding Instructions Memo.
- Power of Attorney.
- Living Will.
- Advanced Directive.
- Beneficiary Designation Memo.
- Enclosure Letter.

# Design - Select Profile

- **Purpose** - Mapping a thought process to document design.
- **Start** - Select a Profile of a document, e.g. a Disclaimer Will.

The screenshot shows a dialog box titled "Select Document(s) to Add" with a close button (X) in the top right corner. The dialog contains a text area with the following text: "The system contains a comprehensive all-inclusive Will with extensive options for property dispositions. It can be used to draft a simple Will, a Will for an individual with significant assets who may need more extensive planning, and anything in between. Expand the tree further to see the individual profiles in this group." Below the text area is a search bar with the placeholder text "Search" and a magnifying glass icon. Underneath the search bar is a tree view of document profiles. The tree has three main items: "Wealth Transfer Planning" (with a minus sign icon), "Wills" (with a minus sign icon), and "Comprehensive Wills" (with a checkmark icon). Below the tree view is another search bar with the placeholder text "Search" and a magnifying glass icon. Below the second search bar, there are several document profiles listed, including "PBN - Will - Outright to Spouse; Disclaimer Tax Planning".

# Design - Firm Profiles

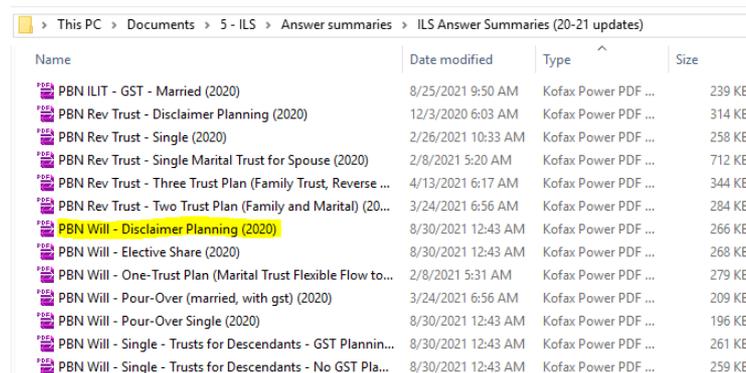
- **Purpose** - Use software so in a manner so that attorneys are thinking about drafting questions.
- **Profile** – In a Month of Saturdays the Firm has already created the “default” answers that will be selected based on drafting preferences of the attorneys to create a Disclaimer Will.

The screenshot shows a software interface for drafting a will. The title bar indicates the document is 'will.docx'. A sidebar on the left lists various sections of the will, with 'TAX PLANNING' currently selected. The main content area is titled 'TAX PLANNING' and contains the following options:

- Using The Unified Credit**
  - Ensure use of the unified credit
- Using The GST Exemption**
  - Ensure use of GST exemption
- Other Tax Issues**
  - Include direction regarding deceased spousal unused exclusion amount
  - Include Family Trust for disclaimer

# Design - Answer Summary

- **Purpose** - Use software so in a manner so that attorneys are thinking about drafting questions as they “build” the estate plan.
- **Profile Design** – The Firm will generate an “answer summary” from the software for that Firm’s Disclaimer Will Profile and print that as a PDF. This gives every question that the attorney or drafting paralegal will need to answers to generate the Disclaimer Will. The decisions you pre-selected in the Profile are so indicated on the summary.



Name	Date modified	Type	Size
PBN ILIT - GST - Married (2020)	8/25/2021 9:50 AM	Kofax Power PDF ...	239 KB
PBN Rev Trust - Disclaimer Planning (2020)	12/3/2020 6:03 AM	Kofax Power PDF ...	314 KB
PBN Rev Trust - Single (2020)	2/26/2021 10:33 AM	Kofax Power PDF ...	258 KB
PBN Rev Trust - Single Marital Trust for Spouse (2020)	2/8/2021 5:20 AM	Kofax Power PDF ...	712 KB
PBN Rev Trust - Three Trust Plan (Family Trust, Reverse ...	4/13/2021 6:17 AM	Kofax Power PDF ...	344 KB
PBN Rev Trust - Two Trust Plan (Family and Marital) (20...	3/24/2021 6:56 AM	Kofax Power PDF ...	284 KB
<b>PBN Will - Disclaimer Planning (2020)</b>	8/30/2021 12:43 AM	Kofax Power PDF ...	266 KB
PBN Will - Elective Share (2020)	8/30/2021 12:43 AM	Kofax Power PDF ...	268 KB
PBN Will - One-Trust Plan (Marital Trust Flexible Flow to...	2/8/2021 5:31 AM	Kofax Power PDF ...	279 KB
PBN Will - Pour-Over (married, with gst) (2020)	3/24/2021 6:56 AM	Kofax Power PDF ...	209 KB
PBN Will - Pour-Over Single (2020)	8/30/2021 12:43 AM	Kofax Power PDF ...	196 KB
PBN Will - Single - Trusts for Descendants - GST Plannin...	8/30/2021 12:43 AM	Kofax Power PDF ...	261 KB
PBN Will - Single - Trusts for Descendants - No GST Pla...	8/30/2021 12:43 AM	Kofax Power PDF ...	259 KB

# Design - Customize Answer Summary (Attorney)

- Example** - We don't always use a lifetime Limited Power of Appointment in the Descendant's Separate Trust. While generally not used, the question should always be asked to identify a situation when this might be appropriate (e.g. to give ability to distribute to a beneficiary's spouse during lifetime). So, this point is incorporated into the Answer Summary for the attorney to check off for paralegal to draft.

<b>DISTRIBUTIONS</b>	
Distribution of income	<input checked="" type="checkbox"/> Discretionary to Beneficiary
Distribution of principal	<input checked="" type="checkbox"/> Discretionary to Beneficiary
Authority to distribute gross income to charity	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Standard to be used for discretionary distributions of income	<input checked="" type="checkbox"/> health, education, maintenance or support (Beneficiary Trustee may participate) and any purpose (Beneficiary Trustee may not participate)
Standard to be used for discretionary distributions of principal	<input checked="" type="checkbox"/> health, education, maintenance or support (Beneficiary Trustee may participate) and any purpose (Beneficiary Trustee may not participate)
<b>Trust Terms (Check All That Apply)</b>	
Trustee may favor Beneficiary	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Beneficiary has S and S power	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Include power for beneficiary to withdraw principal for health, education, maintenance or support (HEMS)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Trust terminates in full at some age	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Beneficiary to withdraw in stages	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<b>SEPARATE TRUST BENEFICIARY INTEREST &amp; POWERS</b>	
<i>CLICK for Video Lecture</i>	
<b>SEPARATE TRUST BENEFICIARY INTEREST &amp; POWERS</b>	
Beneficiary to have lifetime special power of appointment	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>To spouse</i>
Include power to appoint by Will (or other instrument, if applicable)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

# Drafting - Attorney Role

- Mark up the .pdf questionnaire generated for the template on an iPad. Email to a paralegal to draft the document together with the client questionnaire that has all client information. Instruct the paralegal on all documents to be prepared for the client (e.g. Disclaimer Will, Disclaimer Will Summary, Power of Attorney, Health Care Power, and Client Enclosure Letter). *Estimated time: 20 – 30 minutes.*

11:44 AM Sun Jul 17 82%  
Sample - Disclaimer Planning (2020).pdf

Answer Summary - PBN Will - Disclaimer Tax Planning (2020)

Client: Tyrell & Simone Williams

Matter No: 999000 Date: 7/7/2022

Notes:

POA:  
↓  
spouse  
↓  
Chikunyt.

LW  
↓  
spouse  
↓  
morgan  
↓  
chase

Note: Exclude Tyrell sister Alexa Peterson from serving as fiduciary.

PROFILE BUILDER OPTIONS

PROFILE MODE

DRAFTING TIP: You are about to create a profile which requires that you first make certain assumptions. These assumptions will affect how the dialog interviews are processed.

Assume Signer is planning for descendants?  Yes

DRAFTING TIP: Choose yes if you wish to assume that the document Signer has descendants. This

# Drafting - Paralegal Role

- Generate the Disclaimer Will, Disclaimer Will Summary, Power of Attorney, Health Care Power, and Client Enclosure Letter.
- Format the package in line with Firm Standards/ Attorney Preferences such as font, spacing, and “Draft” stamp.
- Highlight open issues in the draft (e.g. highlight a missing successor Trustee in the Disclaimer Will Draft as well as the Cover Letter).
- Address any drafting question to attorney while preparing the drafts.
- Return a 90% done package for attorney review before circulating drafts to the client.
- Update the Firm’s project management software (e.g. Clio, Time Matters, Asana, etc.)
- *Estimated time: 1.5 - 2 hours.*

# Drafting – Attorney Review

- Paralegal sends to attorney:
  - 90% complete draft documents.
  - Answer Summary.
  - Questionnaires.
- Attorney mark up drafts
  - Redline / Comment in Word.
  - Make notes on a .pdf of the drafts.
  - *Estimated time: 20 – 60 minutes.*

5. The Trustee shall distribute to the Beneficiary the principal of the trust as soon as practicable after the Beneficiary has attained the age of forty (40), and the trust shall terminate. Prior to that, as soon as practicable after the Beneficiary has attained the following ages, the Trustees shall distribute to the Beneficiary net income and principal of the trust in the following amounts:

a. While the Beneficiary is between twenty-one (21) and under twenty-five (25) years of age, the Trustee shall distribute to the Beneficiary 0.75% of the fair market value of the trust for any given year.

b. As soon as practicable after attaining the age of twenty-five (25), the Trustees shall distribute to the Beneficiary seven and five tenths (7.5%) percent of the then fair market value of the remaining trust assets.

c. While the Beneficiary is between twenty-six (26) and under thirty (30) years of age, the Trustee shall distribute to the Beneficiary ninety-five hundredths (0.95%) percent of the fair market value of the trust for any given year.

d. As soon as practicable after attaining the age of thirty (30), the Trustee shall distribute to the Beneficiary seven and five tenths (7.5%) percent of the then fair market value of the remaining trust assets.

e. While the Beneficiary is between thirty-one (31) and under thirty-five (35) years of age, the Trustee shall distribute to the Beneficiary one and fifteen hundredths (1.15%) percent of the fair market value of the trust for any given year.

f. As soon as practicable after attaining the age of thirty-five (35), the Trustee shall distribute to the Beneficiary seven and five tenths (7.5%) percent of the then fair market value of the remaining trust assets.

g. While the Beneficiary is between thirty-six (36) and forty (40) years of age, the Trustee shall distribute to the Beneficiary one and twenty-five hundredths (1.25%) percent of the fair market value of the trust for any given year.

**Comments:**

- Hulligan, Nancy E.**  
I was not sure how to edit this to have Jessica receive 50% of the trust and 40 and Josh to receive the balance of the trust at 40
- Galante, Maria F.**  
Not needed- clarified with Jeff and to leave as is

**Redlines:**

- WHEATLEYLISS\_D\_R Deleted: Trust
- WHEATLEYLISS\_D\_R Deleted: point
- WHEATLEYLISS\_D\_R Deleted: %
- WHEATLEYLISS\_D\_R Deleted: Trust
- WHEATLEYLISS\_D\_R Deleted: point
- WHEATLEYLISS\_D\_R Deleted: %
- WHEATLEYLISS\_D\_R Deleted: Trust
- WHEATLEYLISS\_D\_R Deleted: point
- WHEATLEYLISS\_D\_R Deleted: %
- WHEATLEYLISS\_D\_R Deleted: Trust

# Client Review

- Attorney instructs paralegal / assistant to circulate drafts for client review including any special transmission instructions (default secure send .pdf and Fed Ex paper copies of drafts). **Marty Comment: we rarely send paper unless the client asks. Post-Covid it seems that clients have made the transition to electronic documents. That saves considerable staff time, etc.**
- Paralegal / assistant circulates drafts to client with copy to attorney:
  - Accept redline / make attorney changes / Quick 1:1 or Teams Chat with attorney on any questions from attorney; and,
  - Prepare and transmit email and Fed Ex communications.
- Paralegal / assistant update matter management program that drafts are sent and follows up on questions / comment.
- Questions / Comments (*Estimated Attorney / Paralegal Time – 1-2 hours*):
  - Client email; or
  - Teams with attorney; and/or
  - Resend to client for final approval.

# Document Execution (Client has Approved Final Drafts) – In Office

- Meeting set on the client's schedule with a notary and an attorney in the office on the day and time of the client's convenience.
- Legal assistant modify date and witnessed pre-filled in documents.
- Legal assistant prints documents and creates Document Signing Checklist\*.
- Client meets and signs documents (*estimated 15 – 25 minutes*).
- **Marty** – similar process but we guesstimate 45 minutes and we don't fill in the witness names in advance "just in case."

\* *Generated from Firm forms not currently in the document automation software.*

# Document Execution (Client has Approved Final Drafts) - Remote

- Paralegal prepares Remote Execution Checklist\* re witnesses and notary.
- Attorney can join execution meeting via Teams / Zoom.
- Legal assistant transmits drafts and Remote Execution Checklist via Fed Ex.
- Legal assistant manages return of originals / updates client matter management software.
- Paralegal / legal assistant reviews originals remotely executed for completeness and accuracy and manages any incomplete documents to completion.
- **Marty**: we have avoided remote signings, but that is a long discussion. See detailed article on electronic signings on LIS.

\* Generated from Firm forms not currently in the document automation software.

# Post-Execution (Legal Assistant)

- Scan documents.
- Vault originals and update vault spreadsheet. **Marty:** This is one significant difference we don't keep any originals. All are given to client. We are totally paperless. We find that much more efficient and less risky to us as practitioners. We had not found that holding a will brought the probate work back to us. Heirs tend in our view to go where they want.
- Transmit copies via secure email / mail to any person directed to receive copies by clients.
- Transmit any post execution memo, e.g. Change of Beneficiary, Funding Revocable Trust (all were prepared by paralegal and approved by attorney during the Drafting step).
- Prepare and send final bill.
- Update client matter management software on project status, schedule follow-up communications, and marketing lists.
- Send thank you and project update to referral source.

\* Generated from Firm forms not currently in the document automation software.

# Selecting an Automation Partner

**There are Options**



# Consider – Practice Area Alignment

- What percent of your current practice area are supported by a potential automated drafting software partner? Consider the strength of:
  - Estate planning
    - Sophistication of tax planning and options relative to your client base. Ancillary documents
    - Advanced planning
  - Elder Law / Special Needs
    - 5-year planning
    - Crisis planning
    - Medicaid applications
    - Elder and Special Needs Specific Trusts

# Consider – Document Library Alignment

- What types of documents do you currently produce? To what extent can these be automated through (1) automated drafting software, or (2) producing Firm “source” or “specimen” documents that another attorney or paralegal / legal assistant can use to prepare a first draft of a document.

## **Planning Documents**

- Will.
- Trust.
- Ancillary (Power of Attorney/ Advance Directive / Living Will).
- Summaries.

## **Supporting Documents**

- Enclosure letters.
- Concept memos.
- Flowcharts.
- Funding and Operations Guidance.

# Consider – Document Quality and Customizations

- When you review the documents prepared in the automated drafting software, do you feel the quality meets or exceeds your current documents?
- **Marty**: Many attorneys may feel that the quality of document generation documents will never match their own. They may be right. But if they work does it matter? Consider the flexibility, quality control, updating and all other factors even if you don't love the provisions in them.
- What are the credentials of the people responsible for the language of the documents and the technology? How often are documents updated to address changes in the law and technological improvements?
- How easy is it to format the documents once generated. Is there automated numbering when provisions are added or deleted? Is there one-click formatting to your preferred font and spacing?

# Consider – Process and Training

- What Processes will you need to develop to implement automated drafting? Is there guidance on best practices?
- What initial Training is available for you, your IT team, other attorneys, paralegal, non-attorneys. Is the Training interactive and ongoing? Are the trainers experienced estate and elder law attorneys who “get” your law practice?
- What ongoing Training is available for (1) new team members, (2) to offer continuing education, or (3) as the system and software change? What is the current users’ feedback on Training?
- You will need to have someone available to answers your questions about the technology and how to approach drafting. What Customer Service and Support is available? What are current users’ experience with Customer Service and Support?

# Consider – Community

- What is the quality of the User Community?
  - Are there Forums and Listservs. If so:
    - How active are they? If you post a question, will you get a response in an hour, a week, or maybe never? A strong forum or listserv can be the place for your to bounce ideas and ask questions if you don't have a large team.
    - Who are the participants? Are the participants more experienced than you in certain areas so you can gain knowledge? Where are they located?
  - Is there a Referral Network of local practitioners who use the same base documents. If so, where are they located? Are these firms you could envision referring business to?

# Consider – Trial Evaluation

- Calendar multiple days to evaluate.
- Involve multiple team members to evaluate and issue a report on pros / cons, such as:
  - Attorneys,
  - Paralegals, and
  - Administrative staff.
- Read and compare sample draft documents.
- Review support material to help train your and your team.
- Participate in community and ask questions.
- **Marty:** Not sure that a trial is realistic. I found the learning curve was steep. It takes time to get comfortable with using document generation when you have drafted in a different manner for decades. But to me the reasons to adopt document generation are so compelling we just bit the bullet and did it. While going through the process of assimilating document generation we have multiple lawyers in every drafting session and did not bill the client for excess time.

# Consider – Interview Current Members / Subscribers

- How have they integrated automation into their practice?
- How do they evaluate their experience?
- What has been the most valuable impact of automation on their practice?
- What is the biggest point of frustration with their automation partner / provider.
- What would they do different if they were starting automation again?

# Consider – Return on Investment (ROI)

- Your Return on Investment (ROI) will be a function of how partnering with an automated drafting software prover can help you improve efficiencies on profitably on estate planning and elder law drafting. Current estate planning profitability.
- We will go through a Case Study that considers:
  - Annual expense of providing estate planning and elder law drafting services, including projections of:
    - Cost of producing documents,
    - Fees for document packages, and
    - Monthly document packages.
  - Calculation of an ROI multiple for the year.

# ROI – Case Study

- Most attorneys are surprised when they examine all the time that goes into estate planning / elder law drafting that they are not maximizing profit opportunities.
- By adopting automation and marrying it with (1) “source” or “specimen” documents, and (2) Workflows for all team members to consistently follow, one firm’s profitability on flat fee estate planning increased from 0 – 10% to 40+%.
- The firm used the “saved time” to do marketing to more prospects to then increase the amount of high profit estate plans / elder law plans as a percentage of their overall practice.
- The firm moved more projects to flat fee as the profitability on flat fee matters was higher than on an hourly model for similar projects and the clients reported greater satisfaction with flat fees over hourly billing.

# ROI – Case Study Analysis

- Analyze Current State - Sample 10 – 20 recently completed projects and identify:
  - All billing timekeeper time (including consultations)
  - Billing timekeepers' hourly rates.
  - All administrative time.
  - Administrative time cost (salary, benefits, rent share, etc.).
  - Fees billed and received on that matter.
- Imagine Future State –
  - Push attorney hours to paralegals.
  - Push attorney and paralegal hours to legal assistants.
  - Reduce attorney and paralegal overall hours by leveraging automated drafting software.

# ROI – Case Study – Current State

## Current Profitability

### Married - Revocable Trust

	Billing Hours	Billing Rate	Non-Bill Hours	Non-Bill Costs	Expense
Attorney	10	400			4000
Paralegal	0	150			0
Admin			5	50	250

**Cost of Project \$ 4,250**

**Fee \$ 5,000**

**Profit \$ 750**

**Profit Percent 15%**

# ROI – Case Study – Future State

## Automated System Projected Profitability

### Married - Revocable Trust

	Billing Hours	Billing Rate	Non-Bill Hours	Non-Bill Costs	Expense
Attorney	5	400			2000
Paralegal	4	150			600
Admin			3	50	150
				<b>Cost of Project</b>	<b>\$ 2,750</b>

**Fee**           \$ 5,000

**Profit**           \$ 2,250

**Profit Percent**     **45%**

# ROI – Case Study (cont'd)

## Annual ROI

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**Expense**           \$ 10,000

### Current

Plans per Year           10

Profit per Year   \$ 7,500

### Projected

Plans per Year           20

Profit per Year   \$ 45,000

**Profit Increase**   \$ 37,500

<b>ROI</b>	<b>375%</b>
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# Top Automated Drafting & Document Assembly Solutions To Consider

*InterActive Legal*

 WealthCounsel

ELDERCOUNSEL

**FORE!**

**Lawgic**

**LAWYERS WITH  
PURPOSE®**

# **Expand your Practice**

**Document generation  
can help your practice  
evolve**



# Partner with Automated Software for New Tools

- New planning source documents for situations that you encounter less frequently and do not currently have “go to” documents such as:
  - Unmarried relationships,
  - Variety of distribution provisions, or
  - Expanded fiduciary roles.
- Advanced planning source documents as a starting point for unique plans that you need to re-educate yourself on:
  - Irrevocable trusts, or
  - Charitable planning.
- Expand your practice with access to tax planning options in Wills/Trusts and access to elder law planning documents for estate planners expanding their practice.

# Partnering with Automated Software to Expand Network

- Take on more opportunities by created co-counsel relationships with other users of the automated software such as:
  - Advanced practitioners to help you with sophisticated tax based planning, or
  - Local counsel in a different state.
- Receive intra-network referrals from other users of the automated software such as:
  - Estate planning, or
  - Ancillary administration, or
  - Real estate, or
  - Business.

# **Conclusion and Additional Information**

# Conclusion – Ask Yourself

- What kind of practitioner do I want to be: Vanguard, Modern Practitioner, or Relic?
- Where, in *my* practice, can automation:
  - Create efficiencies?
  - Improve delegation?
  - Maximize the time I spend on a file from a client's perspective?
  - Reduce training time and error?
- What is my projected ROI of automation?

# Conclusion – Take Action

- Task staff members to identify automation partners / providers.
- Calendar time to:
  - Map your current process.
  - Identify areas of inefficiency or where you don't have the right person
  - Interview automation partners / providers
- Create an implementation plan.

# Additional information

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## Thank you to our co-presenter

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