Office 365 and the Cloud: What You Need to Know about Ethics and Security

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Office 365 and the Cloud

What You Should Know About Ethics And Security To Avoid 6 Common Ways Law Firm Staff Violate Ethics

Presented by
James Gast, CEO
David Myers, COO
SpliceNet Legal Tech

Bios

James R. Gast, Jr.
President/Owner, SpliceNet, Inc.
- Former Instructor, University of Cincinnati Clermont Association for Paralegal Studies
- Former Instructor, Capitol University, Columbus, OH Paralegal Studies
- Holds 5 Legal Technology Certifications making him one of the most certified professionals in the Midwest
- Consults for nearly 100 Law Firm over the last 15 years
- Speaker for Cincinnati, Dayton and Indiana Bar Associations
- All Around Great Guy and Legal Technology Guru

David J. Myers
Vice President, SpliceNet, Inc.
- Recovering Tax, Probate, and Estate Planning Attorney
- Graduate of the University of Notre Dame Law School
- Holds Multiple Legal Technology Certifications, servicing nearly 50 Law Firm clients over the last 6 years
- Microsoft Certified Small Business Specialist
- Up-and-coming Legal Consulting Star
- Long-time member of the Donauschwaben Verein, with a penchant for polka
- Proud father, husband, and son
One Of Your Attorneys Is Planning To Leave
They’ve Been Copying All The Firms Files To A USB Drive
You Have No Idea
They Leave And You Disable Their Accounts
But What About The Stuff They Took?
Is The Damage Already Done...
Now What?

You’ve Got A Great Staff Member Or Attorney
They Don’t Mind Working From Home
To Make It Easier They Setup Dropbox
And You Didn’t Know
They Work This Way For Years
They Leave Your Firm
You Leave Their PC Intact For Their Replacement
Six Months Later You Discover They Used Dropbox
It’s Been Syncing The Entire Time
Now What?
You’re Having Lunch At With A Friend
You Check Your Email
Review A Doc Shared To You On OneDrive
Making Notes On OneNote
You Eat Lunch
Pay The Bill
Leave
You Get Back To The Office
Panic Sets In, Where’s Your Phone…
Now What?

The Smartphone, Not User

Today We Will Show You How To Prevent Similar Events From Threatening Your Law Practice, Your Staff, Your Livelihood And Your Future

- Explain what the Office 365 & the “Cloud” are and are not.
- Discuss the ethical considerations involved with using Office 365 or any Cloud service.
- Using Ethical considerations we will help you determine if your data is safe in the cloud.
- Give you some tools to determine if you are prepared for the Ethical consideration of Office 365 & the Cloud

What You Get Today

SpliceNet
Wikipedia says: Cloud computing is the use of computing resources (hardware and software) that are delivered as a service over a network (typically the Internet). The name comes from the use of a cloud-shaped symbol as an abstraction for the complex infrastructure it contains in system diagrams. Cloud computing entrusts remote services with a user's data, software and computation.

Blah, Blah, Blah!!!

What does “Cloud” mean in regular language? Pennsylvania Opinion 2011-200 says: “While there are many technical ways to describe cloud computing, perhaps the best description is that cloud computing is merely ‘a fancy way of saying stuff’s not on your computer.’”
What Office 365 Really Is?

Office 365 IS NOT:
- A new version of Word, Excel, PowerPoint or Outlook
- A "hosted" version of Office software
- Does not require Windows 10.

Office 365 IS:
- A brand name of a multi-bundle of cloud-based products
- A cloud-based location for your documents and email
- A cloud-based location for applications your team can use to work and collaborate

Law Firm Cloud Applications
Okay...where's my roadmap?

Key Ethical Issues

- Rule 1.1 - Competence
  - Lawyer shall provide competent representation to a client
  - Comment 8
    - "To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject."
• Rule 1.6 - Confidentiality of Information
  ◦ (a) - "A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted..."
  ◦ (c) - "A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client."

Key Ethical Issues

• Evaluating Cloud Options
  ◦ Functionality/Usability
  ◦ Service and Support
  ◦ Availability/Access (Rule 1.1)
  ◦ Ethics/Security Concerns (Rule 1.1/1.6)
  ◦ Cost

ABA Guidance
• Ethics/Security Concerns
  ◦ Safeguarding privacy/confidentiality
  ◦ Data backups and colocation
  ◦ Vendor history
  ◦ Exit strategy
  ◦ Terms of Service/Service Level Agreement/Confidentiality Agreements

ABA Guidance

• ABA Summary
  ◦ http://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/charts_fyis/cloud-ethics-chart.html
  ◦ So far 20 States with Guidance
  ◦ General Rule: Use of Cloud Technologies Permitted
  ◦ Standard: "Reasonable Care"
Factors to Consider

- **Administrative Safeguards**
  - Lawyer's ownership and access to data
  - Retain unfettered access to data
  - Enforceable obligation to ensure confidentiality
  - Terms of Service
  - Vendor Experience and Reputation
  - Obtain client approval before storing highly sensitive data in the cloud
  - Require notice in event of unauthorized access

- **Technical Safeguards**
  - Understand storage methods used
  - Ensure use of available technology to guard against foreseeable risks
  - Security measures in place
  - Backup strategy
  - Password protection
  - Data encryption
Don’t Go It Alone

- Develop or consult with someone with competence in online computer security
- Consult an expert if lawyer's technology expertise is lacking

“...important that lawyers recognize their own competence limitations regarding computer security measures...the lawyer must have, or consult someone with, competence in the field of online computer security. (Arizona)
- “Many attorneys, as with a large contingent of the general public, do not possess much, if any, technological savvy.... If the attorney lacks the necessary competence to assess the security of the technology, he or she must seek additional information or consult with someone who possesses the necessary knowledge, such as an information technology consultant.” (California)
• “...performing due diligence regarding information technology can be complex and requires specialized knowledge and skill. This due diligence must be performed by individuals who possess both the requisite technology expertise and as well as an understanding of the Iowa Rules of Professional Conduct.” (Iowa)
• “Given the rapidity with which computer technology changes, law firms are encouraged to consult periodically with professionals competent in the area of online security.” (North Carolina)

Don’t Go It Alone

For Sale: Client Confidential Information $100.00 OBO

The Cloud Is More Secure
• The Big Fallacy: “No One Is Trying To Get My Data”

• Even if 1% of law firms are hacked:
  ◦ 3887250 Babies Born Each Year
    • 38872 given to wrong parents
  ◦ 135 Space Shuttle Flights
    • 1.35 Shuttle Disasters
  ◦ If 100 Law Firm Hacks are attempted each day
    • 1 Firm/Day could be Slapped with Ethics Violation

Not Me...

The Dark Web

• SSNs: $30
• DOB: $11
• Credit card with mag stripe/chip: $12
• Health Insurance Info: $11
• Amex Creds: $7
• Discover Creds: $8
• Anyone can easily buy training, tools and services for committing fraud, hacking systems, buying stolen credit cards, setting up fake web sites, etc.
• Cyber-criminals even offer support contracts for their software
Headline: Local Law Firm Burglarized

- In 2010, a Local Law Firm was the victim of a robbery having all their computers, laptops, printers and servers stolen.
- Left with nothing but paper files, the firm was left to:
  - Contact the Courts they THOUGHT they were due in to try to determine their hearing dates, cancel all upcoming hearings and appearances and get thoroughly reamed by the Judges and Opposing Counsel who wanted to use the firm's misfortune to win their cases.
  - Contact the Clients they were hired to help only to lose many of them due to their lack of faith in the firm.
  - Contact the Ethics Commission to report the improper disclosure of Privileged Attorney-Client Confidential Information.
  - Contact their Liability and Malpractice Insurance providers to report their losses and potential need for representation during Ethics hearings.

Too Late

Common Post-Cyber Event Scenario

- Sad reality, after years of “we don’t need it” excuses, the Firm had nothing in place to recover from. Excuses ranged:
  - We can afford to be down for a few days without any real harm to our business.
  - My brother-in-law works on our computers and has us covered.
  - We really don’t need our data to stay in business. We could recreate it easily if we needed to. We use Carbonite.
  - We have redundant drives in our server (RAID).
  - Not a big deal if one of our notebooks crash.
- Data recreation took nearly 1½ years, 2 part time staff @ 20 hours/week – Cost $40,000.
- Equipment replacement reimbursement took over 90 days with Insurance Carrier – Cost $60,000.
- Lost revenue – Estimated $150,000 from lost clients and unproductive non-billable attorney and staff time.

- Total Costs before reimbursements - $250,000
- Cost for a Cloud Backup System – Less than $400/month

PRICELESS
Data Center Storage
- Overseas Data Centers?
- Are They Reputable?
- Do They Encrypt Your Data?
- Are They SAS 70 Or ISO 27001 Certified?
- Do They Have Data Center Redundancy?
- What Is Their Disaster Plan?
- Confidentiality Agreement
- Who Owns Your Data?

Where’s Your Data?

Your Server Crashed Now What?
- You’ve Got Your Handy Dandy Backup Drive.
- Call Your Tech Guy.
- He Tests Your Drive In His Server.
- Tells You You’re Ok And Goes Home.
- Next Day Tells You The Backups Were Actually Bad.
- What Really Happened?

Tapes & USB Drives. Really?
• Read Our Book
• Hold Your IT Guy’s Feet To The Fire!!!
• Read Our Free Report: “Answers To The Top 5 Questions Business Owners Have About Cloud Computing”
• Law Firm Office 365 & Cloud Readiness Worksheet

How Can You Be Ready?

• 3 Minutes to start on worksheet

Is Your Firm “Cloud” Ready?
Your opinion matters!

Please take a moment now to evaluate this session.

Thank You!

Your connection to knowledge, resources and networking

ALA
Association of Legal Administrators