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**Family Law**  
**The GPS of Family Law - Where to Start, Where to Go,  
What's the Best Way to Get to Resolution**

**Attracting, Working With and Protecting the Online  
Social Butterfly and Tech Savvy Family Law Client**

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Ontario Bar Association  
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# **ATTRACTING, WORKING WITH AND PROTECTING THE ONLINE SOCIAL BUTTERFLY AND TECH SAVVY FAMILY LAW CLIENT**

Our clients and their children have entered the digital age with gusto. They interact and make connections (personal and professional) with each other, gather, consume and share information, and find the services and service providers that they need in near real time. They accomplish this by navigating the digital world of websites, blogs, and social media sites, like Facebook and Twitter. These mediums allow the user to access a fountain of information without leaving the comfort of whatever environment that they are in. In addition, because of the impersonal and indirect nature of the contact between individuals, many users become less guarded and inhibited. As a result the information that is shared through social networking media sites is often very intimate, that is, the kind of information that historically would only have been revealed after first establishing a connection rooted in trust, like a friendship.

The technological revolution underway impacts the family lawyer in a multitude of ways, some subtle and some not so subtle. In this paper we have selected three key areas of influence:

1. If done right, the digital world offers you a relatively inexpensive way to market your practice and to get the word out about who you are and the services you provide on a scale that has traditionally been inaccessible except by the most prominent and wealthiest of family lawyers and law firms.
2. If the norm is for our clients to post intimate information, photos and even videos about themselves, their partners and their children on various social media sites, then we as family lawyers need to know what our client's online portrait looks like. We need to take a far more proactive role in helping the client to remedy any inconsistencies between their online image and the image that we need to have to advance the client's case. We also need to help them secure their online activity from prying eyes. Family lawyers need to recognize that the client's online activity amounts to a treasure trove of information that sooner or later will find itself admitted into evidence to attack credibility and to colour the courts perception of the client.
3. If you are going to be attractive to and meet the demands of a client base that is fast becoming used to communicating in near real time and who prefers to exchange information digitally and without having to physically leave their space, then you are going to have to change the way in which you interact with those clients. That is, you are going to have to put systems in place that enable you to work with clients remotely.

A word of caution: Before we began writing this paper we thought we were really tech savvy due to the fact that we use *less paper* and secondary remote offices. As we looked deeper into the various topics covered in this paper we quickly realized that there is so much more available than what we are using. So, rather than a comprehensive guide to the digital universe, you will have to settle for a sampler consisting of those aspects of the digital world that we found most interesting and realistically possible for the average family law lawyer, like us, to implement. For a more detailed and thorough review of the social media world and how it affects lawyers we highly recommend the December 2009 issue of LawPRO magazine which is devoted almost entirely to social media. In Schedule A to this paper we have listed the websites referred to in this paper as well as some other websites that you should consider visiting.

## **SOCIAL MEDIA & FAMILY LAW**

### **Some Key Descriptions**

Let's start with some basic descriptions:

#### Blogs

Using simple publishing tools on the Internet, bloggers produce Websites that provide bite sized installments of the writers own news, opinions and analysis. The news articles can be about anything from news about your business, your field of law, a topic of interest in your field of law, your family, or whatever "news" you are interested in sharing. The writers who write the "news" are called "bloggers". Blogs are organized by individual news stories, like articles in the paper, called "blog posts". To create a blog post, bloggers use simple publishing tools on the internet. Those who read the blogs are usually those who are interested in the blogger's version of the news or in the kind of news the blogger generally shares. Each blog post can become a discussion through comments left by readers thereby making the news a forum for dialogue. Blogs are useful because they help you develop relationships with your readers and other bloggers with similar interests. They are an excellent way to promote yourself as an expert on a particular issue.<sup>1</sup>

#### Twitter

Twitter is a social networking and micro blogging service that allows you to send short text messages of no more than 140 characters in length, called "tweets", to your "followers." Followers are individuals who subscribe to receive the content of someone

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<sup>1</sup> Raasch, Janet Ellen. "New Media Marketing, Part I – Blogs: How Lawyers Can Become Thought Leaders in a Niche Market." 2009. CBA Practice Link. Nov. 8, 2009.  
<http://www.cba.org/CBA/practicelink/tayp/blogs.aspx>

else who interests them. You can follow those you know personally, celebrities, news outlets, or those who tweet about a particular topic that interests you. You need a twitter account to send tweets but you do not need a twitter account to be a follower because by default, Twitter content is published to the Internet.

You can send your messages using the Twitter website directly or via a third-party application such as Twirl, Snitter, or the Twitterfox add-on for Firefox. Your tweets are displayed on your profile page, on the home page of each of your followers, and in the Twitter public timeline (unless you disable this in your account settings).

If you start using Twitter regularly you should install a management tool like Tweetdeck or a third-party application such as Twitterberry for the Blackberry.

Direct messages are private messages sent from one Twitter person to another but you can only send or receive a direct message to a person who follows you. An @reply however, is a public message sent, regardless of follow-ship, that anyone can view.

Again, reading your Tweets isn't limited to your followers. Once your message or tweet is out there, it's out there, you can't edit it. You can delete an update by clicking the trash icon on the right end of the update, but you can't make changes.<sup>2</sup>

## Facebook

Facebook is also a social networking site for people to get to know each other without having to build a complicated website. You simply fill in the forms with information and it is done for you. It is often described as a 24-7 global mixer.

Facebook works on a compilation of "friends" or contacts. You accumulate friends by looking for people you know such as people listed as contacts in your address book. Once you find someone you want to be friends with, you invite them to be your friend. If they accept, they are added to your list of friends. Once you have a friend, you can look through their list of friends and add their friends as your friends.

The most significant features on Facebook are your profile, your wall, your status, your friend's list, your pictures, and if you set up an account at Twitter.com you can add Twitter to your Facebook profile. Then when you send a 'Tweet', it updates your Facebook status as well.

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<sup>2</sup> Stevens, Samden Joshua. "Twitter Explained." 2008. Twitternet. Nov. 7, 2009. <http://tweeternet.com/>; "Getting to Know Twitter." Nov. 4, 2008. Twitter.com. Nov. 7, 2009. <http://help.twitter.com/forums/10711/entries/13920>; "Reality Check: Top Twitter Tips and the Best Twitter Tools." May 29, 2009. Search Unified Communications. Nov. 7, 2009. [http://searchunifiedcommunications.techtarget.com/generic/0,295582,sid186\\_gci1357539,00.html](http://searchunifiedcommunications.techtarget.com/generic/0,295582,sid186_gci1357539,00.html); Calloway, Jim. "How Can Lawyers Use Twitter?" Nov. 3, 2009. Family Law Lawyer Tech and Practice Blog. Nov. 7, 2009. <http://familylawyertech.blogspot.com/2009/11/how-can-lawyers-use-twitter.html>

When you message someone on Facebook who is not your friend, you allow them access to some of your personal profile information for 30 days, so you need to be careful about whom you message to, particularly if you are not interested in having them added as your friend.

## LinkedIn

LinkedIn is similar to Facebook and Twitter in that it is a social networking site. It is used for professionals wanting to:

1. **Connect with past and present colleagues or classmates**

When you join LinkedIn, you will be asked to create a profile which will include your education and employment history as well as your particular expertise and accomplishments. LinkedIn can then put you in touch with present or former classmates or colleagues. You will be provided with a list of people who have already joined LinkedIn whom you may know (based on your profile, employment and education history) as well as an opportunity to reach out to those individuals. You can send messages or simply invite others to join your professional network. Once linked, you will be able to seek and potentially be linked with the connections of your connections. In this way, you can expand your professional network easily and rapidly.

2. **Discover inside connections when looking for a new job or business opportunity**

LinkedIn allows you to perform job searches and also allows you to see if there are other individuals on the site who you might know and who may be able to assist you in securing a particular job.

3. **Seek advice from colleagues or industry experts**

You can search the database of questions and answers or ask your own questions to a community of peers and experts in various subject areas.

## YouTube

YouTube allows you to upload and/or watch videos on the Web. You can share video clips through websites, mobile devices, blogs and e-mails. Most of us are familiar with YouTube as a result of popular or funny clips which become widely available through e-mails or popular websites but it is also a useful marketing tool. It is possible to record and upload a video of yourself to answer questions or provide general information to the public relating to your practice area. Due to the easy search capability of the site, potential clients seeking a lawyer can easily locate and review videos of lawyers in their area.

## Marketing Your Practice by Setting up a Website

Here's what you need to get a website:

1. **Get a Domain name:** Think of names that say something about you, your practice, or your message. They must be easy to remember. Consider naming your site after yourself, so everyone can find you.
2. **Register your Domain name:** This can be done by contacting your internet service provider.
3. **E-mail:** Having your own domain name gives you unlimited, permanent e-mail addresses.
4. **Pick the type of website you want:** The most common type of website is a combination brochure and information site. That is, the website is essentially an electronic brochure which describes the firm and the services it provides as well as providing information about the particular areas of practice, related links, and information that the visitor might find useful and relevant to their matter.
5. **Find a Web Host:** The web host keeps your site on a server, so it can be accessed.
6. **Design your website:** You can either design your website yourself or hire someone to do it for you. If you are planning to design your own website, consider the many websites available which provide templates, hosting services and a "how to" guide to getting started.<sup>3</sup>
7. **Search Engine Optimization:** If you want people to find your website when surfing or searching on the net, it is important to include some search engine optimization features into its design. We have attached as Schedule B to this paper a list that Victoria's sister, a prominent website designer, sent her to help her set up her website. As you read through this paper, you will see that there are some other features that you can add to your website in addition to those set out in the schedule which will also lead to more effective search engine optimization.

## Marketing your Practice on Facebook

In her article, "How to Advertise on Facebook", Debbie Blunt identifies 10 ways to market yourself on Facebook. Here is a somewhat abbreviated listing of what we considered to be the top six:

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<sup>3</sup> For example, see [www.squarespace.com](http://www.squarespace.com) or [www.wordpress.com](http://www.wordpress.com)

1. Make sure your profile is filled out completely. That is, don't just fill out your contact information such as e-mail addresses, websites, your birthday, but also where you live, your activities, interests and favorites.
2. Gather lots of friends. Start by looking for people you know and then add their friends. If you create articles or other content online, invite your readers to connect with you by including a link to your profile and include this link in your e-mail signature. If you belong to any other online groups, post a message inviting members to network with you on Facebook.
3. Find groups that interest you, and then join and participate in them. Many groups will let you post about your business. You can also create a group of your own. Join or create groups not only with your own personal interests in mind, but the interests of your target market as well.
4. If you have created a new article or other content you can post a link in the 'Posted Items' section of your profile so others can see what you've done.
5. Update your status on your profile page often because your Facebook friends see this.
6. Write comments or messages on your wall and on your friend's walls. By utilizing the wall, people can see your name and picture, letting them know that you are an active networker.<sup>4</sup>

### **Marketing on Twitter**

It's easy to set up a Twitter account but if you want to maximize its effectiveness as a marketing tool you need to give some thought to what you are going to Tweet about. Like blogging, keep it simple and stick to things that you know. You can tweet about news relating to your community, your practice areas and the legal profession in general. You can also use Twitter to send out notices about events happening that involve, or are of interest to your friends or followers and to send out notices of upcoming CLE programs.

Jim Calloway identifies several tips on using Twitter in his article, "Can a Lawyer Really Use Twitter to Market a Law Practice?", including:

1. Set up a Twitter account using either your name or your law firm name;
2. Try to use the word "law" or "family law" in the account name;

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<sup>4</sup> Blunt, Debbie. "Using Facebook as a Marketing Tool." 2009. [Helium.com](http://www.helium.com). Nov. 7, 2009. <http://www.helium.com/items/1100268-how-to-advertise-with-facebook>

3. Post your picture and a link to your law firm website on your profile;
4. Send an e-mail out to your contacts announcing that you are on Twitter and giving them the web address, e.g., [twitter.com/starrfamilylaw](http://twitter.com/starrfamilylaw);
5. Do some searches in Twitter to see those who you might want to follow and then follow them;
6. See who your followers are and those whom you follow are following and add them if their content is of interest;
7. Try to tweet at least weekly, but not too much. You don't want everyone to think that you have nothing to do all day;
8. Follow almost everyone that follows you because many people view this as a hard and fast rule of Twitter etiquette.<sup>5</sup>

### **Marketing by Blogging**

Bloggging has been around for a while now and this seems to be an area in the digital world that many lawyers have already ventured into. For the most part, law blogs tend to revolve around recent cases and developments in the law, providing links to judgments and articles of interest, while at the same time allowing the authors to provide their own commentaries, and gather the views and opinions of colleagues and clients. Blogs increase your visibility and can really raise your profile as they create the perception that you are, correctly or incorrectly, an expert.

In an article entitled, "Blogging the Spotlight",<sup>6</sup> Jared Adams points out that while blogging looks complicated, it's actually not because there are a number of do-it-yourself blog sites, including [blogspot.com](http://blogspot.com), [blogger.com](http://blogger.com), [typepad.com](http://typepad.com) and [sixapart.com](http://sixapart.com), to walk you through the process. Once a blog is set up, posting an item is as simple as composing and sending an e-mail. As one commentator put it, "If you can use a word processor, you can blog".

The trick to successful blogging is twofold: first, like anything else, you need to find a niche or specific area to blog about. Successful legal blogs often have a very narrow focus so that you can build a reputation as an expert in the area. The second key to success seems to be to commit to the time and effort it will take to update your blog regularly. What counts as regular maintenance seems to vary quite a bit. Some author's that I read suggested ½ an hour a day, others, 3 times a week and yet others

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<sup>5</sup> Calloway, Jim. "Can a Lawyer Really Use Twitter to Market a Law Practice?" Oct. 10, 2009. [Oklahoma Bar Association Journal \(okbar.org\)](http://www.okbar.org/members/map/articles/2009/oct-twitter-market-law-practice.htm). Nov. 7, 2009. Vol. 80. Iss. 26. <<http://www.okbar.org/members/map/articles/2009/oct-twitter-market-law-practice.htm>>

<sup>6</sup> Adams, Jared. "Blogging the Spotlight." 2009. The Canadian Bar Association. Nov. 13, 2009. <http://www.cba.org/CBA/National/aprMay05/feature2.aspx>

indicated that effective blog maintenance ought to be roughly equal to writing a regular newspaper column. What everyone seems to agree upon is that fresh content is king.

In her article, "New Media Marketing, Part I – Blogs: How Lawyers Can Become Thought Leaders in a Niche Market", Janet Ellen Raasch, points out that there are many places to find content for your blog. You could use one of the family law newsletters that are published regularly such as Matrimonial Affairs, Carswell's "This Week in Family Law", or by scanning the Ontario Reports, Law Times or Lawyer's weekly. You can also try downloading a news aggregator or newsreader. When signing up for the aggregator or newsreader clarify the topics, websites or blogs of interest. The aggregator then goes out into the web searching for new content in these areas and then delivers the headlines and links to your desktop as they are found. To find content to blog about all you need to do is scan the headlines for a few minutes. A simple, free aggregator is Google Alerts at [www.google.com/alerts?ht-en](http://www.google.com/alerts?ht-en). Another powerful tool is Newscaster at [www.newsgator.com](http://www.newsgator.com).

Janet Ellen Raasch also notes that as a marketing tool blogging can also assist with search engine optimization. Once your blog is set up, she says that you should register it with the various search engines and consider adding an RSS feeder. Consider including in your Facebook and signature lines for electronic content such as e-mail and Twitter, a link to your blog and RSS feed. These additions increase the likelihood that a law firm's website, blog or even e-mailed newsletter will show up on the first page of search engine results. Most blog software includes the ability to automatically generate an RSS feed for each item that is posted.<sup>7</sup>

An RSS feed is a piece of code that should include carefully selected keywords, categories, headlines and summaries of a post. As soon as it is posted, an item with an RSS feed is sent out to people who have subscribed to the "feed," and to the Internet, where it will be searched and catalogued by the appropriate spiders and aggregators. Visitors to a blog can subscribe to its feed by clicking on the orange "RSS" or "Atom" box that appears on most blogs.

If you are looking for a simple and inexpensive blog, use a hosted blog provider such as Blogger ([www.blogger.com](http://www.blogger.com)). If you find it too daunting to set up your own blog there are turnkey providers who will design your blog, host it, develop keywords, optimize it for search engines, generate usage statistics and train users (visit: [www.lexblog.com](http://www.lexblog.com)).

For a listing of Canadian Legal blogs visit <http://www.lawblogs.ca>.

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<sup>7</sup> Raasch, Janet Ellen. "New Media Marketing, Part I – Blogs: How Lawyers Can Become Thought Leaders in a Niche Market." 2009. CBA Practice Link. Nov. 8, 2009. <http://www.cba.org/CBA/practicelink/tayp/blogs.aspx>

## **Marketing on LinkedIn**

Setting up a LinkedIn account is simple and straightforward, much like Facebook or Twitter. It's important to include your educational and employment history to maximize your network. Once enrolled, consider searching the site to find past or current colleagues or classmates. Send invitations to the individuals you know to join your network. Once you are connected to others, you will be able to see their contacts and seek further connections. Also consider searching for groups as well which may be useful to your practice area.

Remember that many people use the updating function of this site. Each time you are connected with someone else or update your profile, a notice is sent to all of your connections who have opted to receive these updates. Keeping your profile current or adding others to your network are useful ways to keep yourself visible online.

## **Marketing on YouTube**

Video clips can be completed either by you or by a professional in order to be uploaded to the site. Before submitting a video, consider reviewing what is already there and consider ways in which to make your video stand out from the others. A search of family lawyers in Toronto, for example, will demonstrate a large number of your colleagues that have already uploaded videos in order to market themselves. You can provide information about yourself and your practice, answers to FAQs or use any other format which might draw some attention to your practice and/or your website.

## **Some Cautionary Comments about Using Social Media to Promote your Practice**

In the recent article published in the December 2009 issue of LawPRO magazine, "Social Media: Pitfalls to Avoid",<sup>8</sup> Dan Pinnington, points out that it's a good idea to review the relevant Rules of Professional Conduct before you embark on a marketing campaign rooted in the internet and social media sites in particular. Rules 3.01, 3.02 and 3.03 are key, but don't overlook section 5.8.2 of the Technology Guidelines which clearly stipulate that: "Lawyers making representations in generally accessible electronic media should include the name, law firm mailing address, licensed jurisdiction of practice, and e-mail address of at least one lawyer responsible for the communication." To be clear, this means that this information has to be included on your Facebook page and Twitter bio. Also, remember that while you are free to use electronic media to promote your services, you are not supposed to distribute electronic advertisements directly or indiscriminately to large numbers of people.

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<sup>8</sup> Pinnington, Dan. "Social Media – Pitfalls to Avoid." LawPro Magazine. Vol. 8, Iss. 4, (2009): 18-20

Dan Pinnington says lawyers should also be careful to avoid the unauthorized practice of Law, potential conflicts of interest, and avoid giving legal advice online. To avoid confusion about whether you are licensed to give advice about the law in the jurisdiction from which the user hails, Dan Pinnington suggests that you include the jurisdiction in which you are licensed to practice in your profile, bio or page. To avoid conflicts of interest (to which you are extremely vulnerable when exchanging information with potential clients online); you should also build in protective steps to verify the identity of the potential client and the opposing party. To avoid creating a lawyer/client relationship online be careful about giving any kind of information that could be seen as legal advice and include a disclaimer in anything you post online.

If you are going to market your law practice through social media you need to remember to exercise good judgment in what you post. Think of your posts, blogs or tweets as announcements being made by you in the court hallway. If you would not share the content in that forum, then don't post it. Don't say bad things about other lawyers or judges and make sure you don't breach solicitor-client privilege or client confidentiality by mentioning the names of your clients or the details of their matters. To protect your clients avoid using the social media sites to talk to them about their matter and avoid seeking out advice from a colleague about how to handle a client or her matter because the social media audience is bound to eventually include someone in it who is going to recognize the client/matter. Having a strong online presence can be a double edged sword. If you would like to use the Web to promote your practice, you may want to start by finding out what is already there. A simple Google search of your name or practice will bring up any existing relevant links. Facebook, Twitter or LinkedIn accounts are not the only place your name may pop up. Websites which allow the general public to rank lawyers online are becoming increasingly popular. Sites such as Google local search, Ziplocal and LawyerRatingz.com allow clients to post online reviews about their lawyers, doctors or other professionals which anyone can see. Clients are becoming increasingly Web savvy and will spend a great deal of time searching potential lawyer profiles online prior to retaining one.

## **SOCIAL MEDIA AND PROTECTING THE CLIENT**

Blogs, websites and social media sites are evidentiary gold mines.<sup>9</sup> Because of the often casual, candid and unguarded nature of what is posted, their content, be it discussions, photographs, or videos, can be used to undermine credibility and to cast the party in a harmful light. While there are only a few reported family law decisions in Ontario and even Canada where the data gleaned from a party's online presence has been used to colour the court's perspective, it is not non-existent.<sup>10</sup>

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<sup>9</sup> Luscombe, Belinda. "Facebook and Divorce: Airing the Dirty Laundry." June. 22, 2009. TIME Magazine. Nov. 7, 2009.  
<http://www.time.com/time/magazine/article/0,9171,1904147,00.html#ixzz0WDCxtr05>

<sup>10</sup> See the following most notable cases in which Facebook material coloured the court's view of one of the litigants: *Ferguson v. Gilmour*, 2009 CarswellOnt 2915, [2009] W.D.F.L. 3189, [2009] W.D.F.L.

To illustrate this budding field of evidentiary influence, consider some recent cases in which Facebook seems to have influenced the court. In *Ferguson v. Gilmour*,<sup>11</sup> the court found that the father's use of derogatory names in front of the children, as well as on public websites such as Facebook, was very upsetting to the children and damaging to the children. In *Hassan v. Mufti*,<sup>12</sup> the court found that the father's comments on Facebook illustrated that he had a hard time separating the parties' issues from the children's issues. In *Nabigon v. Lavallee*,<sup>13</sup> the court, having regard in part to the Respondent's use of the phrase "Hey Son" to begin his Facebook comments with the child, had stood in the place of a parent towards the child. In *S. (M.N.) v. S. (J.T.)*,<sup>14</sup> the mother introduced Facebook records to illustrate why she believed that the father was buying, trading, and selling illegal prescription drugs to and with his friends. After reviewing the chat logs, the judge was left with serious concerns about the state of the father's mental health, drug use and social networking.

### Managing the Client's Online Image

Given that online activity has and is being relied upon by lawyers and by the courts, your initial work with your client should include a candid discussion about the kind of image that they need to project throughout the family law dispute as well as an inquiry into whether they or the opposing party have an active online presence. You need to do this for two key reasons: first, to fulfill your duty as counsel to explain to the client, in appropriate cases, that documents posted on the party's online profile may be relevant to allegations made in the pleadings and therefore, public or private as that presence may be, discoverable. The client needs to understand that an online presence that depicts them in compromising situations can hurt their case as well as undermine all of the other efforts being made to paint them in a favourable light.<sup>15</sup>

If the client has an online presence then your task is to review that online presence with them to make sure that the image they are projecting of themselves is consistent with

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3210, [2009] W.D.F.L. 3214, [2009] W.D.F.L. 3216 (Ont. S.C.J., May 26, 2009); *Hassan v. Mufti*, 2008 CarswellOnt 3622, [2008] W.D.F.L. 3731, [2008] W.D.F.L. 3734, [2008] W.D.F.L. 3735 (Ont. S.C.J., Jun 18, 2008); *Nabigon v. Lavallee*, 2009 CarswellOnt 2092, [2009] W.D.F.L. 3463, [2009] W.D.F.L. 3478, [2009] W.D.F.L. 3508 (Ont. S.C.J., Apr 21, 2009); *S. (M.N.) v. S. (J.T.)*, 2009 CarswellBC 1334, 2009 BCSC 661, [2009] B.C.W.L.D. 4547, [2009] B.C.W.L.D. 4548, [2009] W.D.F.L. 3037, [2009] W.D.F.L. 3049 (B.C. Master, May 20, 2009); *M. (M.J.) v. D. (A.)*, 2008 CarswellAlta 2121, 2008 ABPC 379, [2009] A.W.L.D. 769, [2009] A.W.L.D. 770, [2009] A.W.L.D. 772, [2009] W.D.F.L. 853, [2009] W.D.F.L. 864, [2009] W.D.F.L. 885 (Alta. Prov. Ct., Dec 19, 2008)

<sup>11</sup> *Ferguson v. Gilmour*, supra, at para 49

<sup>12</sup> *Hassan v. Mufti*, supra, para 56

<sup>13</sup> *Nabigon v. Lavallee*, supra, at paras 9 and 10

<sup>14</sup> *S. (M.N.) v. S. (J.T.)*, supra, paras 12 - 17

<sup>15</sup> How does one get access to the information contained in a litigant's Facebook account? An excellent discussion of this issue may be found in Facebook in Litigation: Taking a Poke at Discovery by Louise Vrebosch, B.A., LL.B. dated June 4, 2009. This article was presented at the IMLA in Canada 2009 Conference: Critical Issue in a Time of Change. It is available on the Internet.

the image you want to project of them in the case. For example, if you want your client to be perceived as a wholesome, nurturing mother, then part of your work with them will be to remove pictures which show them out partying and drinking it up with friends.

Ideally clients should take down their social online presence entirely and ask family and friends as well as their other contacts to take down any references to them, including videos and photographs. Many clients will no doubt resist taking such a drastic step. If they do then here are some proactive steps identified by Benjamin Stevens in his article entitled "Facebook's No-No's for Divorcing Couples" that they can take to prevent their online presence from negatively impacting on their case:

1. Scour your online presence as well as that of your friends and loved ones for anything that could be used against you in your family law dispute;
2. Take down anything that compromises the kind of image that needs to be portrayed for litigation advantage. This would include speaking to friends and family and asking them to take down videos or photos of you that may harm your case;
3. Don't show off: don't post photographs or videos or engage in discussions about new purchases or vacations. All of these are fodder for the industrious lawyer looking to colour how the court looks at your ability to parent, manage finances, and even your financial need and means;
4. Don't talk about or show the side of you that you would not show your grandmother: leave out details or pictures or videos that depict your wild side; and,
5. Don't talk about your case, your spouse, the lawyers or the judge on your page or on anyone else's page.<sup>16</sup>

### **Advising the Client on How to Better Secure Data**

Your initial work with your client must extend beyond managing their online image to include helping them find ways to increase security to prevent the other party from tapping in. Here are six relatively easy things that your client can do right away to secure technology, electronic documents, and online communications:

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<sup>16</sup> Stevens, Benjamin J. "Facebook's No-No's for Divorcing Couples." July. 6, 2009. South Carolina Family Law Blog. Nov. 7, 2009. <http://www.scfamilylaw.com/2009/07/articles/technology/facebook-nonos-for-divorcing-couples/>; Allen, M. Todd. "Social Networking and Divorce-Related Pitfalls." Fall 2009. Chamberlee and Ryan, P.C. Vol. 4, Iss. 8. (2009). Dec. 24, 2009. <http://www.chambleeryan.com/CM/Custom/Family-Law-Fall-2009.asp>

1. Change all passwords;
2. Get their computer checked for spyware (see below);
3. Open a separate e-mail account for the purpose of exchanging e-mail with counsel;
4. Use an online or off computer storage service to store their electronic communications and documents including e-mail communications; and,
5. Use a computer lock to control access. Most laptops and desktop computers have small slots called "K-slots" or "security slots" that allow owners to attach a computer lock. The locks themselves are sold by various vendors.<sup>17</sup>

Domestic Spyware (or surveillance software) is software that is purchased and installed on the computer and used to record personal or private information by monitoring internet activity and transmitting it to a third party. To be more specific, depending on the brand this software can secretly log all keystrokes including usernames and windows log-on passwords, glean the content of online chats, e-mails sent and received, and record websites visited. It can even take screenshots like a surveillance camera and can display exact activities, like MySpace, Facebook, PC games, online searches & shopping and webmails the program reside in memory while being absolutely invisible to everyone except the installer and will in many cases produce a written report of these activities. If the parties are continuing to reside in the same home or if the computer now in your client's possession was formerly accessible by the opposing party, it would be wise to recommend to your client that she or he take the computer into a computer specialist to check it for spyware. An alternative is to purchase anti spyware online. Once found, the spyware should be removed.

There are many online storage providers. Essentially, these providers allow you to store all of your content through uploading in one place. While the free version of this service does not offer a lot of space, the fee for a monthly plan is relatively small. If you've never used an online storage service our recommendation is that you subscribe to the free service, learn what it can do and how to use it and then, when you recommend it to your client, you can help them with the initial set up. The storage services that we use are Box.net.

## **WORKING WITH CLIENTS REMOTELY**

If you are going to tap into the ever growing pool of clients who are used to accessing services and sharing information online without having to leave the comfort of their

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<sup>17</sup> Stevens, Benjamin J. "Importance of Securing Your Data." Oct. 14, 2009. South Carolina Family Law Blog. Nov. 7, 2009. <http://www.scfamilylaw.com/2009/10/articles/technology/importance-of-securing-your-data/>

surroundings then you are going to have to revolutionize how you meet with clients, how you go about gathering the information and documentation that you need from them, as well as how you share information with them.

### **Meeting with Clients**

There are many ways for lawyers and other lawyers, and lawyers and clients to collaborate in ways unimagined just a few years ago. From very inexpensive conference calling, to wikis, to having on-line simultaneous access to documents that can be viewed and/or edited by multiple persons, to effective project management tools, suffice it to say that there are a multitude of tools that can more quickly and efficiently address our client's needs.

The Law Society has rules around being retained by clients with whom you never have face to face contact and you should know them. To find out what those rules are and what procedures you need to put in place visit: <http://www.lsuc.on.ca/latest-news/a/hottopics/new-client-identification-and-verification-requirements/>.

For the purpose of this paper, we have assumed that you have had at least one face to face meeting with your client and that you have been retained. This section of the paper is designed to give you tips on how to have a meeting with your client, after you have been retained without having them come to your office.

There are several real time communication tools that you can use to host a remote meeting. Generally they fall into two categories: video conferencing tools that allow you to have face to face contact and voice conferencing tools that allow you to essentially have a conference call while at the same time sharing a desktop so that you can review and edit documents together.

The three top share point meeting tools are: Citrix GoToMeeting 2009, Cisco WebEx 2009, Microsoft SharePoint 2009. Our preferences are GoToMeeting and WebEx. Although this is far too simple an explanation of how these tools work, essentially, the host sends out a link which includes a web address and teleconference number. The participants click the link and dial the number. Once everyone has joined the meeting the participants can talk to one another as well as share their desktops and control over the desktop. In our offices we use these tools to collaborate with clients (i.e. work on court documents affidavits and financial statements, as well as to review particular documents that require some explanation from or to the client in order to understand (i.e. a bank statement). For this service the host pays a flat monthly fee and can hold as many meetings as they want with up to 15 participants at a time.

Video Conferencing Tools are different in that they allow for face to face dialogue in real time. With additional features like desktop and file sharing and other collaborative applications, you will likely find video conferencing even more powerful than the share point meeting tools described above. Some key providers are:

- AT&T Connect 2009,
- Cisco Unified Videoconferencing 2009,
- Tandberg Total Telepresence 2009, and
- Polycom Video Conference Systems 2009.

These systems are somewhat more complicated to operate and definitely far more expensive. A less expensive way to have face to face contact is to use Skype which allows you to meet with and speak to your clients face to face in real time, for free as long as they too have a Skype account and for minimal cost if they do not. The key difference between Skype and Video conferencing is that you cannot share and collaborative on items on your desktop.

## **Exchanging Documents Remotely**

### **a. Document Naming Protocols**

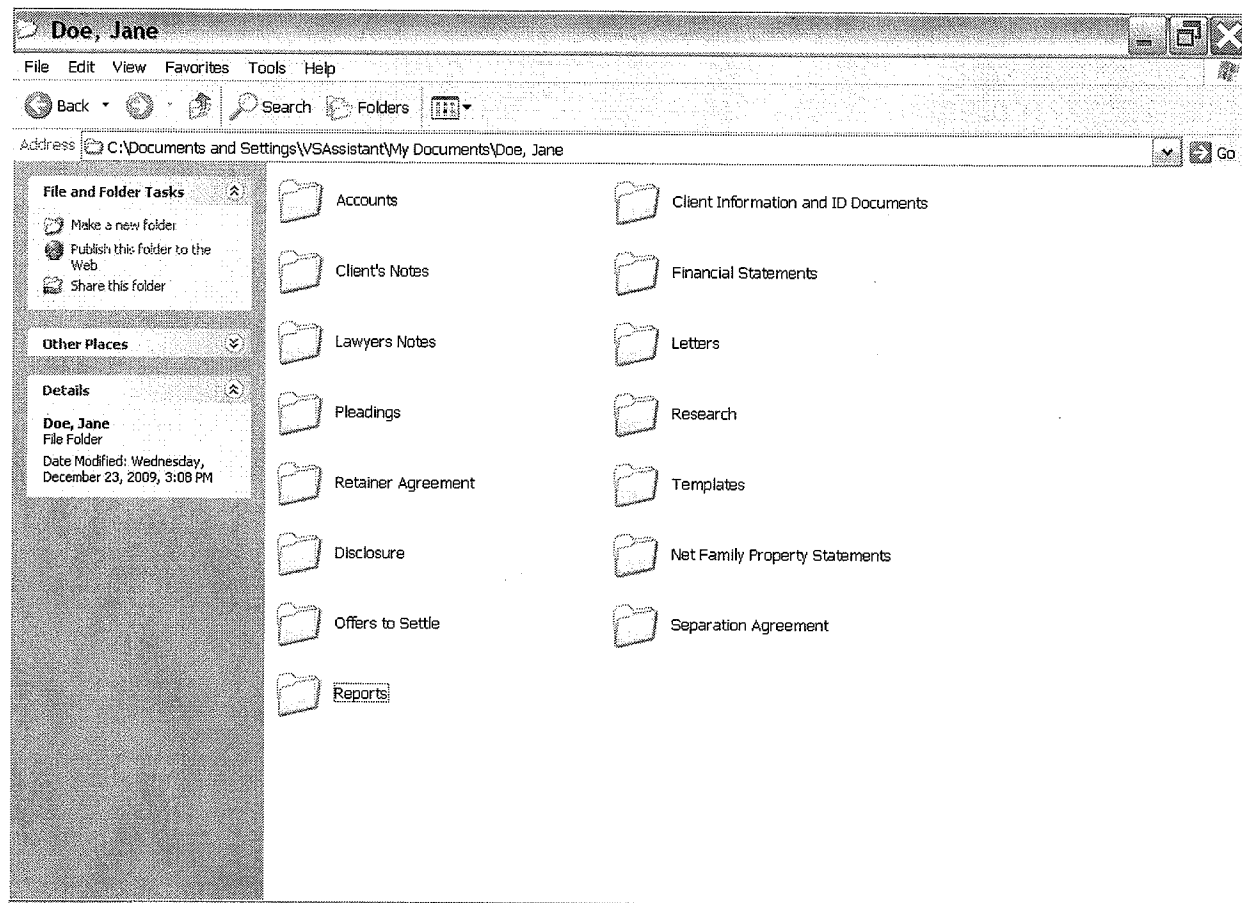
If you are thinking of changing to either a paperless or less paper document management system, take a look at Donna Naff and Natalie Samma's outstanding paper entitled: "The Document Naming System in Our Paperless Office" published in the September 2009 issue of Law Practice Today.<sup>18</sup> The document naming protocols outlined in great detail in that paper are an excellent resource for any lawyer who wants to be more mobile.

The document naming protocol system discussed by Naff and Samma can also be used as a way for your client to effectively save written communications, pleadings and other documents relevant to their matter be it online or off-computer. If both the client and you use a consistent document and file folder, naming protocol both of you can find the documents you need efficiently and quickly.

First off, teach your client's how to organize their case related material using a particular folder naming protocol. In our "less paper" offices we organize our files much like how most lawyers organize their hard copy files. For example, the electronic filing system that we use in our offices looks something like this:

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<sup>18</sup> Neff, Donna and Natalie Sanna. "The Document Naming System in Our Paperless Office." Sept. 2009. Law Practice Today. Nov. 8, 2009. <http://www.abanet.org/lpm/lpt/articles/ptr09091.shtml>



To break it down further and for better organization, you would have subfolders, as shown below:

### Client name

- Accounts
- Client Information and ID Documents
- Client's Notes
- Letters
  - 2009
  - 2010
  - Communications between the parties
- Disclosure
  - Husband
  - Wife
- Financial Statements
  - Husband
  - Wife

- Lawyer's Notes
- NFP Statements
  - Husband
  - Wife
- Offers to Settle
- Pleadings
- Reports
- Retainer Agreement
- Separation Agreements
- Templates

All electronic documents are also named in a consistent, standardized manner and stored within the logical folder structure. Here is a sample file name showing the common components which we explain below:

2009 08 04 Letter from opposing counsel requesting disclosure  
 or  
 2009 12 23 0905 Email from client re bank statement

It is critical if you want documents to appear in order of receipt or sent dates that the names begin with the 4-digit year, 2-digit month, and 2-digit day and that where a document is time sensitive such as an e-mail, that this be followed by the time received. The date is the date it is received or sent and not the date of the letter. If the date of the letter or document is different from the date received or sent, then we use the date of the letter in the name of the document.

Following the date is an abbreviation indicating what type of document it is, e.g., let for letter. This allows us to determine what type of document it is without having to open it. Differentiate between sent and unsent documents by including 'SENT' in the file name for all documents that have left the office. In Victoria's office all drafts are also moved to the draft subfolder.

The next element of the file name is a brief description of the document contents. Keep these descriptions short, highlighting the key topic addressed in the letter.

If exchanging drafts with the client it is critical to rename the various drafts. We suggest that you either use the word Draft as well as numerical system that starts with "#1" and increases as new versions are created (e.g. #2) right after the date and so forth for all drafts. We also recommend that the end of the name contain only the initials of the author of that version. For example:

2009 12 23 #1 Draft Application vs

It takes time to teach the client how to do this but once you do, both you and the client can find what you are looking for quickly. In addition, teaching the client to use the same naming protocol as you means that you will save the time you would otherwise have spent renaming the documents that they send to you.

In Victoria's office they use one more time saving technique to deal with documents that are not provided by the source directly to the lawyer (i.e. e-mails that come in via the law clerk, and letters that come in by fax, mail etc...). When these come in, the law clerk converts the document to a PDF using the correct naming protocol and then sends an e-mail to the client with a copy to the lawyer that has the document attached (named using the correct naming protocol) and which says, for example:

"Receipt and review of letter from opposing counsel dated December 12, 2009 regarding access this weekend."

Similarly, when a document is sent out be it to the court or the opposing party or even to the client, the law clerk sends an e-mail to the client with the attached letter and documents (not including lengthy document or disclosure briefs), named correctly, which reads:

"Letter to opposing counsel sent today regarding access this weekend".

This ensures that the client sees the document right away and can simply open and save the document with the right name. In the beginning, while it trains our clients to name and save documents, the e-mail also tells them what folder to save it in. The added feature to this approach is that the lawyer can simply copy the description in the letter and paste it into their docket.

In Victoria's office clients are each given a handout at the beginning of their file that describes the document naming protocol and how to construct their "File". They are then offered a quick tutorial, taught by one of the law clerks, so that they get it right.

## **b. Track Changes**

Most of you will be familiar with the "track changes" feature in Word but in our experience, too few lawyers know about it or use it. If you are not familiar with it and you are going to communicate with your clients remotely, get to know this amazing feature and take the time (or have one of your law clerks take the time) to teach your clients how to use it. Once the track changes feature is turned on any changes made to the original document are tracked using a different coloured font. The original wording, depending on the version of Word being used, either appears on the screen as having been struck out or off to the side. We frequently send documents to the client and to opposing counsel inviting them to make modifications to it using this feature. Once we receive it back we can either accept or reject the change or add to it. The original changes will also appear in a different coloured font and we can then send it back to the client for further review and changes. This feature is incredible particularly when drafting documents such as separation agreements or affidavits. Consider also the

Comments feature in Word which lets you editorialize or ask questions directly on the document.

### **Converting Documents to PDF**

If you are going to send copies of your letters or final documents to your client by e-mail or by e-fax it is important to convert them to PDF documents. This way an actual copy of what is sent out is put into the client's hands. The long way of converting a document to pdf is to scan it in. A shorter way is to print to pdf using software designed to do this. Our favourite software is CutePDF Writer. This is free software that you can download to your computer. All you need to do to convert a document is go to print and instead of selecting a printer, select this item and it is immediately converted to a PDF. You do however, also need to save it.

### **CONCLUSION**

Family lawyers who want to stay competitive and at the top of their game need to embrace digital technology as an essential tool of practice. The good news for those readers who are overwhelmed and don't know where to start is that you don't have to implement everything at once. Our advice is to start with the easy things like learning about Facebook and Twitter so that you are familiar with the tools that the client and their spouse are using to profile themselves online. Start at the personal level by simply setting up a personal Facebook account. Use Twitter to keep in touch with your family members, and by creating a blog about something that interests you and your family or friends. Approaching social media in this way is fun and you'll get the hang of it in no time.

Once you are familiar with the social media sites an easy next step is to incorporate the topic of social media and the importance of securing electronic communications, into your early communications with the client. Before you recommend an online storage system however, try one out yourself and have your staff try it out so that both you and your staff can answer any questions that the client may have.

Once you've mastered these basics, work on putting systems in place that will enable you to work with your clients remotely. Start simple, such as by using track changes to work on documents with your client as well as by using a PDF converter to send documents to them. Once you have mastered that, move on to meeting with them using Skype or better yet, by using software like GoToMeeting to collaborate with them directly through the use of teleconferencing and desktop sharing. It's a good idea though, to try these more advanced technologies out with your staff as guinea pigs first.

When it comes to marketing your practice online start small and work your way up. You can either pick one thing and make it perfect before moving on to the next or establish a basic presence in each forum and once you have established your practice's presence in each forum go back and enhance each tool by adding the bells and whistles.

The trick is to set goals for improving the technological side of your practice and if all else fails, there is always the option of hiring a consultant to help personalize the technology to your law firm.

**SCHEDULE "A"**  
**HELPFUL LINKS AND ARTICLES**

**ONLINE COMMUNITIES:**

**1. Twitter**

Twitter is an online social community in which people post "tweets", which are messages, about what they are currently doing, and have their friends follow their actions through them. These friends are called "followers".

General:

To find out general information about Twitter and to sign up to use this service, visit the site below. You can also follow members of Twitter without becoming one.

- [www.twitter.com](http://www.twitter.com)

Search Tools:

You can search for your friends or colleagues and see their posts whether you're a member of Twitter or not.

- [search.twitter.com](http://search.twitter.com)

Organizers, Scheduling, etc.:

The following sites are sister sites to Twitter.com and have various functions to control your Twitter account.

- [www.Tweetdeck.com](http://www.Tweetdeck.com): This site allows you to organize your contacts, shows how you follow your contacts and builds searches for particular terms searched by you.
- [www.Tweetfeed.com](http://www.Tweetfeed.com): This site organizes your blogs and turns them into Tweets.
- [www.Socialloomph.com](http://www.Socialloomph.com): This site let's you schedule tweets for future postings.

Connecting Lawyers:

There is one Twitter-related site in particular that connects Canadian lawyers. You can view other lawyer's tweets, comment on them and contribute your own law related message at the site below:

- [Lawtweet.ca](http://Lawtweet.ca)

Article:

The article below illustrates 16 ways lawyer's can use Twitter effectively to promote their businesses and to keep up to date.

- "Tweet Sixteen: 16 Ways Lawyers Can Use Twitter", by Robert Ambrogi:
  - [www.tinyurl.com/cmV5pr](http://www.tinyurl.com/cmV5pr); or at
  - <http://www.legaline.com/2009/03/tweet-16-16-ways-lawyers-can-use.html>

**2. LinkedIn**

General:

This is a social network focused on professionals. It allows you to connect with business associates and correspond with other people in your profession.

- [www.linkedin.com](http://www.linkedin.com)

**3. Facebook**

General:

This is another online social community in which the profile you make will be public, depending on your privacy settings. This allows you to outline your professional accomplishments and background information for all to view. With this site you can also participate in group discussions that are relevant to the area of law you practice to engage potential clients.

- [www.facebook.com](http://www.facebook.com)

Articles:

- a) The article below describes situations where parties used Facebook in an inappropriate manner and what client's should avoid doing on the site while going through marital woes.
  - "Facebook and Divorce: Airing the Dirty Laundry", by Belinda Luscombe. This was published in Time Magazine on June 22, 2009. It can also be found at:  
<http://www.time.com/time/magazine/article/0,9171,1904147,00.html#ixzz0WDCxtr05>
- b) This article gives clear, detailed tips on using this social networking site to market your profession and practice.

- “Using Facebook as a Marketing Tool”, by Debbie Blunt can be found at <http://www.helium.com/items/1100268-how-to-advertise-with-facebook>

#### 4. **GigPark**

##### General:

GigPark is an online community meant for people to recommend services or professionals in many different industries, including the legal industry, with whom they were happy with the service performed and/or the individual them self.

- [www.gigpark.com](http://www.gigpark.com)

### **BLOGS**

5. Both Blogger and WordPress are user-friendly and free blogs that allow you to write and create a blog on the topic of your choice. An added bonus is that any blog you create can be included on your firm’s website.

- Blogger: [www.blogger.com](http://www.blogger.com)
- WordPress: [www.wordpress.com](http://www.wordpress.com)

#### 6. **Blogs to Newsletters**

These sites take your blogs and create a professional newsletter that can be mailed out to your clients.

- Constant Contact: [www.constantcontact.com](http://www.constantcontact.com)
- Industry Mailout: [www.industrymailout.com](http://www.industrymailout.com)

#### 6. **Canadian Law Blogs**

To see a list of various Canadian law blogs, we suggest visiting <http://www.lawblogs.ca/>. Below at numbers 7, 8 and 9, Victoria has listed her three favourites from the list.

#### 7. **Law 21: Dispatches from a Legal Professional on the Brink**

##### General:

Law 21 is a Canadian law related blog that is written by Jordan Furlong, former editor-in-chief of the Canadian Bar Association’s National Magazine and it accepts comments posted by its viewers.

- [www.law21.ca](http://www.law21.ca)

## 8. **Slaw**

### General:

Slaw is a co-operative blog, much like Blogger and WordPress, so you can contribute your own blogs, but they must be about Canadian law only, to the site or simply comment on others who also provide useful information on the same topic.

- [www.slaw.ca](http://www.slaw.ca)

## 9. **PracticePro's Avoid a Claim Blog**

This blog illustrates tips and other information to help lawyers and their staff practice effectively and reduce the risk of a claim. Avoid-a-claim blog comes from its sister site, the Practice Pro website that also provides claim prevention, practice management and risk management tips and information. Visit the two sites below to view this information.

- [www.avoidaclaim.com](http://www.avoidaclaim.com)
- [www.practicepro.ca](http://www.practicepro.ca)

## 10. **Article**

This article explains how you can effectively use blogs to advertise your practice and to generate business.

- "Generating business: how blogs can boost your advertising potential", by Luigi Benetton. This article was published on October 6, 2006 in Lawyers Weekly. You can find it at:  
[www.lawyersweekly.ca/index.php?section=article&articleid=357](http://www.lawyersweekly.ca/index.php?section=article&articleid=357)

## **SPYWARE**

11. To familiarize yourself with the different types of spyware, we suggest visiting the sites listed below for a detailed explanation of the different kinds, what they do, how they can be stopped and what programs you can purchase to stop them.

- Pareto Logic: "Types of Spyware."  
[http://www.paretologic.com/resources/types\\_of\\_spyware.aspx](http://www.paretologic.com/resources/types_of_spyware.aspx)
- Top Ten Reviews: "What Types of Spyware are Out There?"  
<http://anti-spyware-review.toptenreviews.com/types-of-spyware.html>

- “The 5 Most Common Spyware Sources on the Internet”, by Shannon Cortez published on AssociatedContent.com in June 05, 2009  
[http://www.associatedcontent.com/article/1800292/the\\_5\\_most\\_common\\_spyware\\_sources\\_on.html?cat=15](http://www.associatedcontent.com/article/1800292/the_5_most_common_spyware_sources_on.html?cat=15)

## **SECURING YOUR DOCUMENTS**

12. CutePDF Writer is free software that allows you to turn documents you created into PDF documents so that they cannot be altered. For more information or to download this software, please go to: <http://www.cutepdf.com/products/cutepdf/Writer.asp>.

## **DOCUMENT NAMING PROTOCOLS**

13. The article below outlines a detailed naming system that can be used by you and your clients to save written information so that it can be found in an efficient and timely manner.
  - “The Document Naming System in Our Paperless Office”, by Donna Naff and Natalie Samma’s, published in the September 2009 issue of Law Practice Today.

## **WORKING WITH CLIENT’S REMOTELY**

In order for the lawyer and client to have face to face contact without having the client come to your office, there are great online tools that can help. We have listed the two we like best.

### **14. Skype**

Skype allows you to meet with and speak to your clients face to face. This is a free service as long as both parties have Skype accounts. If only one party has an account, then the other party pays a small cost to use this service. For more information, check out [www.skype.com](http://www.skype.com).

### **15. Citrix GoToMeeting 2009**

This service allows up to 15 participants to join the meeting, and have control of one desktop. This is a great feature when working with client’s on court documents.

- <https://www1.gotomeeting.com/?Portal=www.gotomeeting.com>

## **USEFUL ARTICLES ABOUT TECHNOLOGY AND THE LEGAL PROFESSION**

- 16.** The article, "Securing Your Tech: More than Just Data", by Joshua Poje details how lawyers can physically protect their technology. This article was published in September 2009 in the Family Law E-Newsletter which can be found at: <http://www.abanet.org/family/newsletters/2009/september.html>.
- 17.** "Technofile Lawyers Leaving Luddites in the Dust", by Valerie Mutton, discusses how lawyer's can use new technology to their advantage. It was published on November 20, 2009 in the Lawyer's Weekly and you can find this article at: <http://lawyersweekly.ca/index.php?section=article&volume=29&number=27&article=5>.

## SCHEDULE "B"

### TIPS TO HIGHER GOOGLE RANK FOR YOUR WEBSITE

The key to getting a high ranking in search engines like "Google" is to get lots of people to link to you. The more people who link to you and the more "important" they are in the Googlebot world, the higher you will rank for keywords. Here are some tips that will help make your website more findable in search engines. However, there is no magic bullet for this and it will take time.

1. Try to build in the words "Toronto" and "Family Law" into your domain name;
2. Try to obtain multiple domain names to profile your site. For example, if you're trying to find names to profile Victoria's site "Starrfamilylaw.com", the following other domain names would be helpful:
  - a. <http://www.victoriastarr.ca>
  - b. <http://www.starlaw.ca>
  - c. <http://www.victoriastarrfamilylaw.com>
3. Get lots of other people (i.e. magazine, blogs, etc) to link to your site;
4. Your website needs:
  - a. Dynamic content (database driven);
  - b. Self editing capability: you can edit yourself with a very simple Content Management System (CMS). We would recommend using a tool like WordPress, which is a blog tool, but can be easily converted into a website;
  - c. You need a text-based, standards-compliant site built with PHP and CSS, not Flash. This is essential for search engine optimization (being findable in Google);
  - d. Your site should have a clear hierarchy. This means that headings should follow in order from h1 to h2 and so on. (CSS!);
  - e. Have a strong introductory paragraph on your site. This should not only explain what your site is about to new readers but also contain the keywords that you want to focus on;
  - f. All pages on your site should have text links to them, not just graphics. And it helps if those text links say something other than "click here";

- g. Make sure your page has a descriptive title tag. If your search for "Untitled" on Google, you come up with more than 11 million hits. Remember that it is possible to show only titles in Google search results, and 11 million is a hard number to rank high among;
- h. For important content, use text, not images. The Googlebot can't read images;
- i. Validate your HTML and keep your link current; and,
- j. Request reciprocal links from other Web page writes.

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