

Popular Threads on Solosez

Old Files — Really Old!

OK, what do you do with really old files? Burn them, shred them, put them in the basement for an archeologist to discover 1000 years from now?

Several years ago, I cleaned out my filing cabinets and took them to the basement of our building. It's a small crawl space that I know has some rats in it. We actually have a peanut depot behind us and it keeps them big and fat. They are probably chewing on these old files as well. I'd rather not go back down there and see. These aren't files I'd ever need to access again. Most are by now over 7 years old.

Since I'm cleaning out my old files again someone was asking rather I should in fact be shredding them or destroying them. I would be afraid that some issue might arise or the old client might call me back and I might want something from those files to help. Just in case. But what happens if I retire after another 20 or so years of this? Should I destroy them all then? Or leave them for an archeologist? Or is that an ethical violation?

Sterling L. DeRamus

I think many state bars mandate how long attorneys must keep closed files. I'd keep them that long and then shred them. I'd consider keeping some types of cases longer, for example immigration cases, where a final decision on a case can take 15 years.

Lilian Loftman

I also recommend drafting a simple Document Retention Policy for deletion of old files, emails, etc. taking into account any applicable rules/statutes/etc. It will go much better for you if you are following an established, documented procedure of destruction.

Patrick Archibald

Let me tell a little tale. At the beginning of my career, files went in the file cabinet. (Computers were new fangled, copying was done at a copy shop, and was expensive, and scanning didn't exist.) When the first file cabinet filled up I got a bigger one. When there was a full five drawer lateral cabinet, I started renting space for storage. Got more laterals. Eventually there were three laterals for client files and a smaller one for business records in the office, and a small room full of client files, divided between old and really old. I started shredding the really old files, but went through each file first to check for stuff that should go back to client or be saved. Got all the way from A to G, in the oldest files, when toxic mold entered my life.

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The entire collection got vacuumed, went into plastic bags, and into a storage locker. Started at \$100/month, six years later is \$150/month. At the beginning I got nosebleeds after only a few minutes with those files, and I still have medical problems if I open those files indoors. Saving files indefinitely leaves you vulnerable to this kind of disaster. You need a better plan.

My state bar says you must save documentation of trust account funds for seven years - but scanned records are ok. Otherwise ethical obligations only entail deciding what should be sent back to the client. If I had it to do over, there would be a file disposal/retention/scanning plan from the beginning, and very, very little paper would be left for storage. That's what I do with current files.

Back to your question on what to do with that pile of old files: I considered scanning, but the estimate was \$35K. Last month I finally tackled disposal. I still have to go through them for that residue which should be saved/scanned. They're still moldy, but I can handle them now if I'm outside. So I sit at the burn pile on a relative's rural property, going through files and putting them on the fire. I've got it down to 15-20 minutes a box. I burned 29 boxes in two sessions in February, found less than half of box of stuff to continue saving, have 126 boxes to go. I'll be done before the spring burning season ends.

Over 25 years, I've only had one instance where an ancient file was useful to a client. That need would have been served today by what I scan and keep.

It would not feel right to just give those old file to a shredder service, I have to go through them first. Having gone through a bunch, I see all kinds of stuff which deserves to stay private, so they have to be shredded or burned. Burning is more fun.

Rebecca Wiess

I have been practicing for almost 27 years. I started out on what is now called "South Beach" (the Southern part of Miami Beach) with a few files in a cabinet and my collection of files both open and closed grew. Eventually, I was forced to place old files in the basement area of my office building where rent was literally dirt cheap.

When South Beach had a renaissance, rent became astronomical and even the basement space became expensive. I eventually moved my office north and closer to my home which was the best move I ever made. I bought a shed for behind my house and thought that would be the answer to my storage problems.

I soon outgrew that too. I shopped around and made a deal with an offsite file storage company. I have secure storage space for about 160 file boxes for less than \$60.00 per month. If an old file has to be retrieved, I have the client pay the cost if it is feasible. The cost for storage is far less than scanning my files and took far less time than it would for me to cull files and call people to pickup materials from files before destruction.

Scott R. Jay

Scan **everything** in the file. Burn it on a CD and label it somehow that makes sense to you. Save the CD. You can get a service to do just that, and then they shred the file after you've given the OK. CD's take up a LOT less space! Of course, you save original stuff like wills, etc if you're brave enough to keep them. Russ Carmichael

There was a time when we saved everything to a floppy disk, and who even has a floppy drive now? In 25 years, will CDs go the way of 8-track tapes?

jennifer j. rose

Sure. But, remember - there was a time when most computers had floppy drives AND cd drives. In fact, you can still get floppy drives. IMHO, it'll be flash memory-based innovations that supersede CD's/DVD's. Maybe a 10GB flash the size of a thumbnail or something. Sure, you have to keep up, somewhat. Still, it's cheaper and takes less room. Russ Carmichael

Very likely, yes.

I lost 10 years of documents (digital copies only--still had paper) when Digital Equipment Corp. went out of business, and I am already having some issues retrieving documents preserved on zip drives. I am convinced that whatever digital medium is used to preserve documents will in the very near future become obsolete to the point that the data can no longer be retrieved.

FWIW, I think Vista will accelerate this.

J. Robert Thompson

Different media have different shelf lives. So, in addition to the issue of having hardware or software needed to read the information, the media itself also has to have the ability to last the time period needed, and one needs to calendar the transfer of data from one medium to another before the shelf life expires. For example, one "expert" says burned CD's last 2 to 5 years. See: <<http://tinyurl.com/7zqez>> And see <<http://tinyurl.com/2joas5>>

Paul Hogan

I still have two cases of 8 track tapes and an old 8 track player - not to mention my college collection of albums.

Only in the past several years did I finally acquiesce to throw away the last of my CPT's and the big 8" floppy disks. Speaking of which, how many of us still have a "floppy drive" on our computers?

Frankly, I agree with Jennifer only I think it will be much sooner than 25 years when CD's will be a thing of the past and there will be newer technology to deal with.

Regardless of whatever happens with technology, I know that I will always be able to access and review my files. Accordingly, my original files remain in storage.

Scott R. Jay

I have a separate (a "cheapie") floppy drive I bought a few years just in case. I have plastic file boxes full of floppies from years ago. I'll probably never need them--but who knows? It's been my experience that you never need any saved past records--EXCEPT those which you have thrown away without making a copy

Dick O'Connor

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