

PAPERLESS OFFICE AND ENGAGEMENT LETTER

OK, I have this nice signed engagement letter printed on professional stationery with my firm logo affixed atop the first page. Very classy. So, I scan it in and file it under the client's folder, fully backed up, of course. Now, can I, should I, dare I, shred the original, or, like a Linus blanket, hold onto it for eternity (or at least a very long time)?

I LOVE paper, but I'm trying hard to get away from it. I have the same problem with official notices from the Patent and Trademark Office, BTW. I'm fully backed up with a local hard drive and cloud offsite with CrashPlan.

Thanks, Bill

P.S. My wife/financial manager/office manager/paralegal/chief a\$\$ kicker not only loves paper, too, but tells me she'll not give it up until I pry it from her cold dead fingers. The good news is that if I need something, she'll be able to put her hands on it.

When I worked paperless, we kept anything that required an original signature. So fee agreements (retainers), appointments of representations, and medical release forms. Everything else we kept digital copy and shredded rest.

For the BK practice I was helping move paperless, all they were keeping in paper copy was the original signed retainer agreement and anything the bk court required they keep.

Erin Schmidt

Get some 9x12 boxes as or use boxes paper comes in. After scanning doc, throw it in. When box is full, close and label with from/to date.

ON RARE day you need paper, not too hard to dig through the pile because they a roughly sorted by date.

DECIDED NOT TO DECIDE.

John Page, Florida

Keep original engagement letters and other documents that need original signatures. I have set up a single file drawer for those documents; although it is no where near full. I keep them by alphabetical order. Do not keep original exhibits from clients - documents they signed, photos, etc. That is their job and I tell them that directly and in my engagement letter. If I lose a document, it is my fault; but when the original make-the-case-lose-the-case document comes up missing, I don't want anybody pointing the finger at me. just my thoughts.

Dennis Riley, Illinois

Why would you need to keep original engagement letters? Since when is an original required as evidence of a writing? Unless you think the client is going to proffer a copy that differs from yours, a copy is as good as the original.

And remember, "paperless" is aspirational. It's about *generating* less paper. If you had to generate the paper to get the signature, it's no further "crime" to actually keep it. Just because you want to minimize your paper consumption doesn't mean you need to go on a rampage to *destroy* what you have generated. Sheesh.

Sure, you want to minimize file space use, but if you have a paper file to hold the 2-3 pages of "essential originals," is it really that big a deal if the file has, say 5-7 pages in it (all of which would have been generated anyway), instead of only 2-3?

-Rick

Richard J. Rutledge, Jr., North Carolina

I agree with Rick--not sure why the need for an original engagement letter. We generally receive engagement letters by fax (converted to pdf by my fax service) or scanned and sent directly as a pdf.

Kevin W. Grierson, Virginia

I'm with Rick on this one. Scan the engagement letter. Make sure it's backed-up at least two different ways (with one being off-site) and once the backups are confirmed shred the original.

Scott I. Barer, California

I keep them in dissolution cases especially. Many times I am awarded fees from the other side and once in a while against my own client. Either way, here the judges want to see that original signature and not hear about the "best evidence" rule. Simple as that.

Dennis Riley

As I mentioned earlier, I agree with Rick (and now Kevin). Notwithstanding my prior agreement, I just added this language to my fee agreements in the section related to maintaining files electronically:

Furthermore, you agree that a copy of this agreement retained electronically shall have the same validity and effect as the original signed agreement.

Scott I. Barer

And what happens if your client faxes the document to you, or sends it via PDF attachment to an email, and never mails the original? Are you denied your fees?

Scott I. Barer

No, I make sure I always get an original. Sometimes I have to wait for the first court appearance to have them sign it, but I get one.

Dennis Riley

I'm a belt-n-suspenders guy. Wear both and you can keep your pants up. In Maricopa County, we file electronically. Court Rules require that we keep the original of any affidavit or other document that bears an attestation of the client.

The State Bar requires that all engagements include a writing setting forth the fee and other info but doesn't have to be signed by the client. A contingent fee matter absolutely has to be in writing and signed by the client. I can imagine a situation where the State Bar could find that the original signature of the client was necessary to prove the right to a fee. Its three or four pages, why not take steps to keep it?

Curtis D. Drew, Arizona

Deviating from the thread that has developed, but consistent with the subject line, here's what we have in our engagement letter:

"We maintain client files electronically in Portable Document Format (PDF). We will send you the originals of important papers and will retain electronic copies. We will send you copies of all other documents either on paper or as PDF files."

We have a similar provision in our fee agreement.

David Masters, Colorado

Sometimes I get engagement letters with signatures, in which case I keep them. But a lot of times I get only a fax or pdf, which is also fine with me. When I was at Big Law our engagement letters were intentionally set up not to require client signature. In my own firm I have set mine up to get a client countersignature, but I don't honestly think it makes any difference whether you can turn the paper over and feel the indentation or if you get 1's and 0's that constitute the client signature; it is all one with me.

Stephanie Hill

Agree. Except I just return the original back to the client with my engagement letter. Let them hold onto those kinds of things.

Jeff Taylor, Oklahoma

Thanks so much to all who contributed. Very helpful, as always.

William B. Richards

As Irving Younger used to say: "The only time you do not need the original is when you do not have the original."

Walter D. James III
