





Non-Standard Equipment

- Unless you provide standard equipment to your work from home team, you have very little control over what equipment they use.
- Computers
- Phone systems
- Scanners
- Printers
- Networking
- Postage meters
- ...



Photo by bert b on Unsplash

Less Secure

- Most home computer users are far less concerned about cybersecurity.
- Home computers lack anti-virus or it is never updated
- Home computers lack proper passwords
 Home computers lack encryption
- Home wi-fi is not configured or secured properly
- Family members have access to home computers
- Home networks see everything else on the network



Photo by <u>Hennie Stander</u> on <u>Unsplash</u>

Less Supervision

- When someone is working from home, there is only so much you can do to ensure:
- They are actually working
 They are following firm guidelines
 regarding cybersecurity
 They are securing their work area
- They are keeping unauthorized people away from their work area



Photo by <u>Avi Waxman</u> on <u>Unsplash</u>

Working from Home

While it has a host of benefits, working from home has significant implications for several of the most basic legal ethics obligations including:

Competence Confidentiality Duty to Supervise

Ethics of Working from Home

The Rules Don't Change!

Ethics of Working from Home

If Anything, You Need to be More Careful







Rule 1.1. Competence A lawyer shall not: (a) Handle or neglect a matter entrusted to the lawyer in such manner that the lawyer's conduct constitutes gross negligence. (b) Exhibit a pattern of negligence or neglect in the lawyer's handling of legal matters generally.



Rule 1.1 Comment 8

To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, and changes in communications and other relevant technologies, engage in continuing study and education, and comply with all continuing legal education requirements to which the lawyer is subject. See Comments [18] and [19] to Rule 1.6. (*Emphasis added.)

Adopted April 2016

* ABA Model Rule reads "including the benefits and risks associated with the relevant technology"

Centralize & Secure: Cloud Options

Two components:







Infrastructure as a Service ("laaS")





How fast can you answer this?











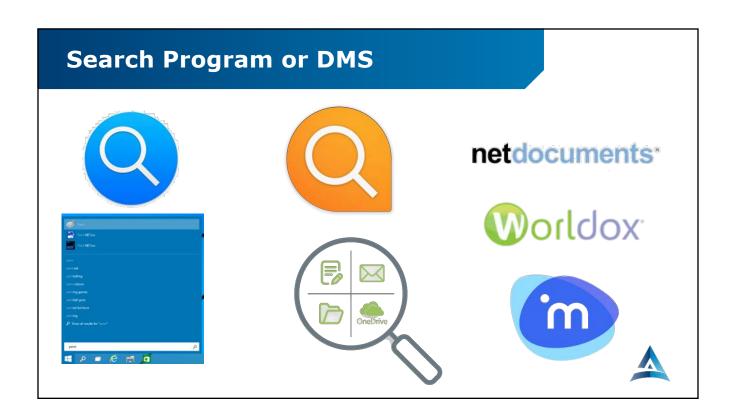
Organize Your Docs & Email

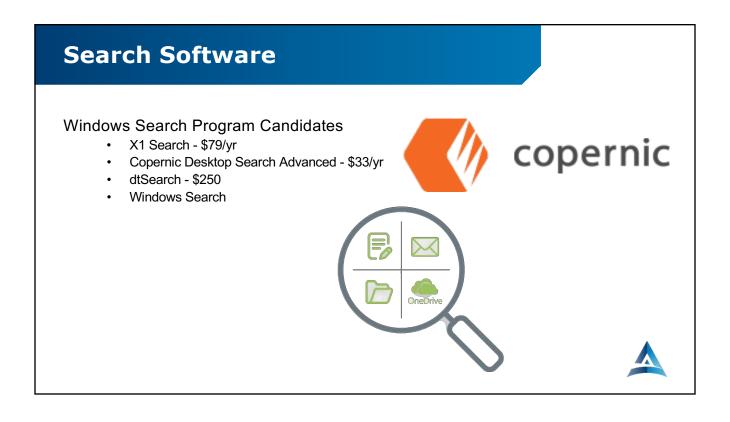
Save to a document management system

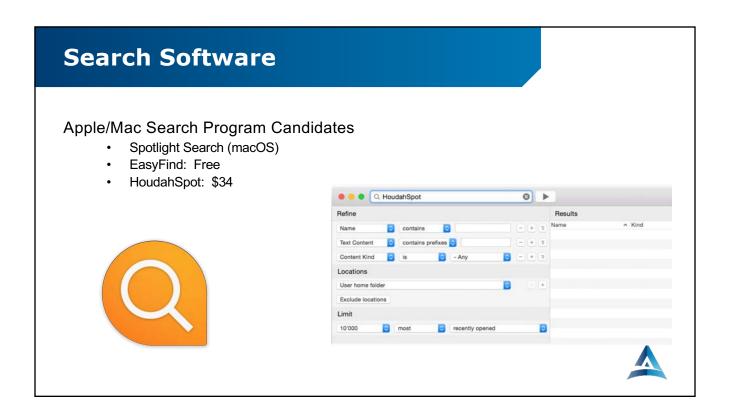
netdocuments®

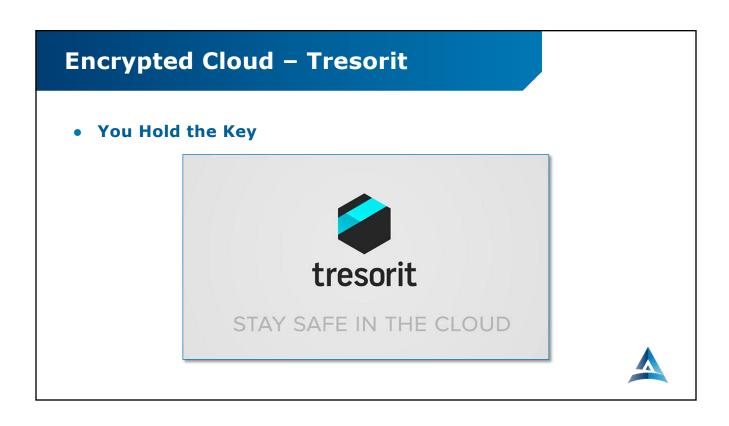


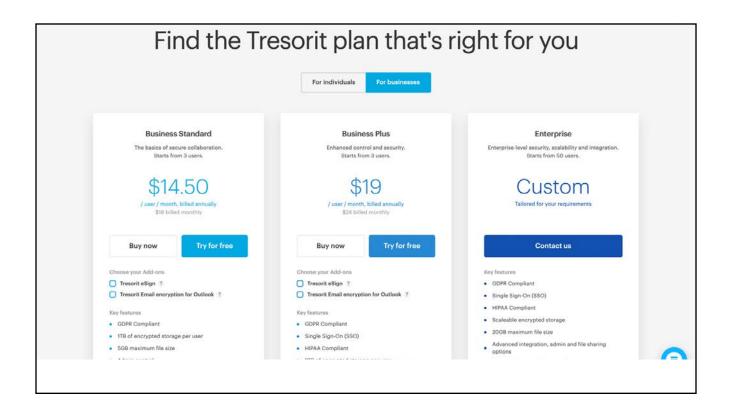












Encrypt Your Cloud

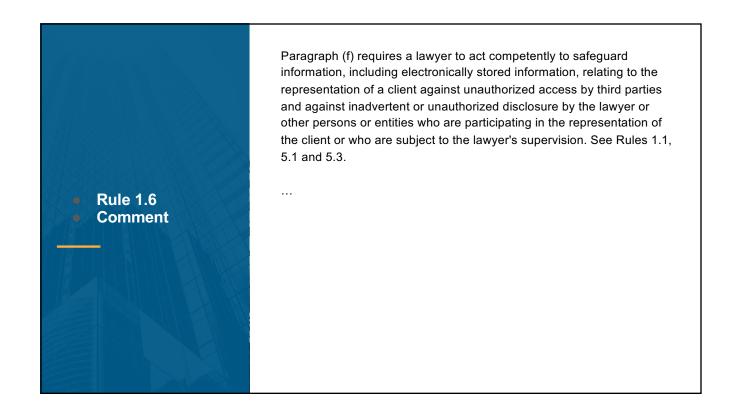


Alternative to Boxcryptor, the former recommendation that was purchased by Dropbox





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 by paragraph (b). (f) 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.





...

The unauthorized access to, or the inadvertent or unauthorized disclosure of, confidential information relating to the representation of a client does not constitute a violation of paragraph (f) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use).

• • •

Data Security

- . It's Not 1990!
- Written Information Security Policy
 - Key Practices & Technology



Hard Drive Encryption

- Symantec Drive Encryption
- Dell DDP Enterprise disk encryption
- SecuriKey Pro
- AlertBoot
- SecureDoc Full Disk Encryption
- Windows BitLocker
- Mac FileVault





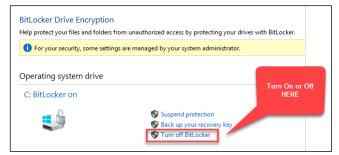






Turning On BitLocker

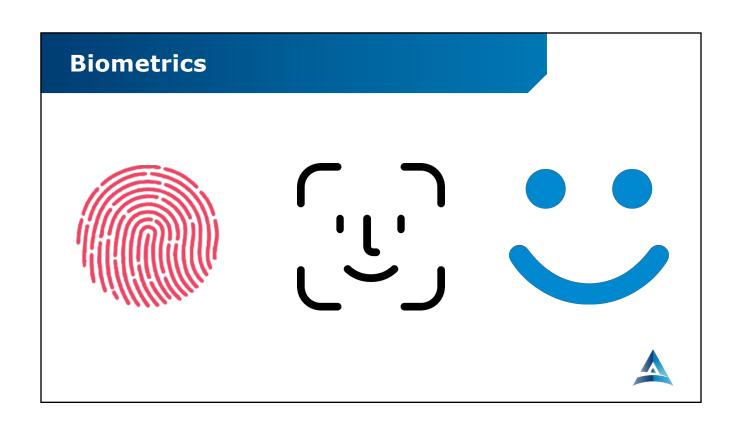
- 1. Windows Key > type "BitLocker" > open Manage BitLocker
- 2. Turn on Windows BitLocker



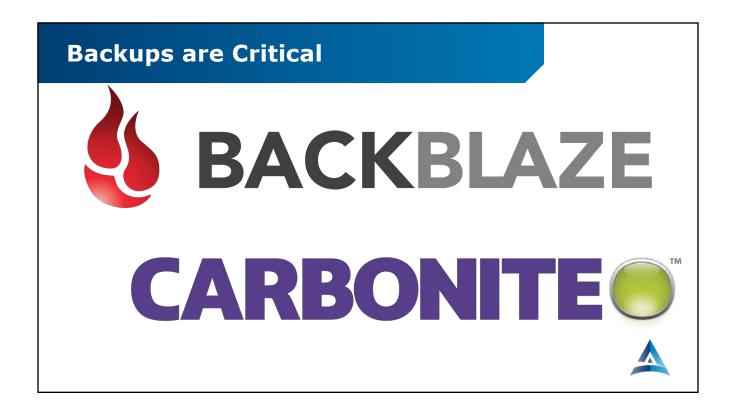




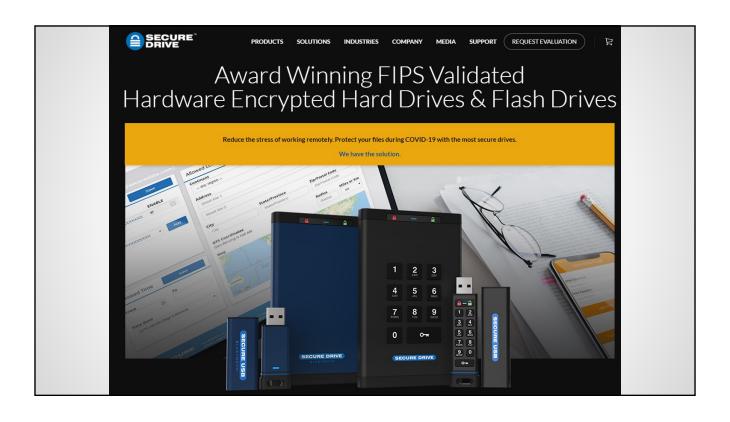
1. System Settings > Privacy & Security 2. Turn on FileVault **Privacy & Security** **Order Security**















Rule 1.6
Comment

. . .

A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent in writing to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules.

For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see Comments to Rule 5.3.

Secure Sharing

- Share files securely with someone outside of your organization
- Share exactly what you need to share and nothing else
- Share in the way you intend to (read only, download, edit, etc.)
- Disable sharing at any time or with an automatic expiration date



Photo by Markus Winkler on Unsplash

Email Encryption

- Send email that is readable to only the intended recipient
- Email is encrypted in transit
- Require a password to open the email or access the linked documents
- Attached documents remain encrypted in the cloud and are only unlocked with the password



Photo by Markus Spiske on Unsplash

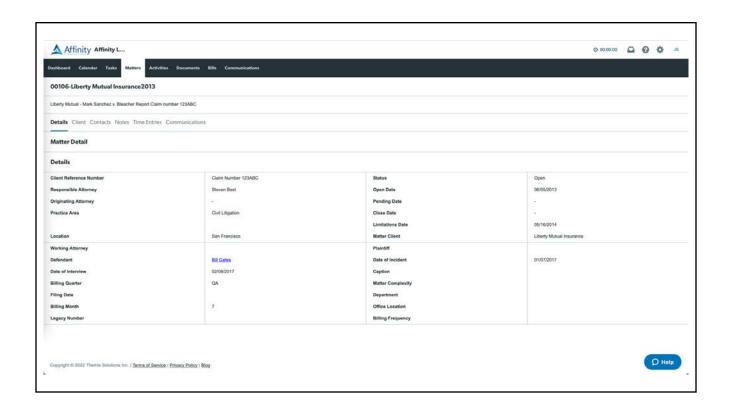
Client Portals

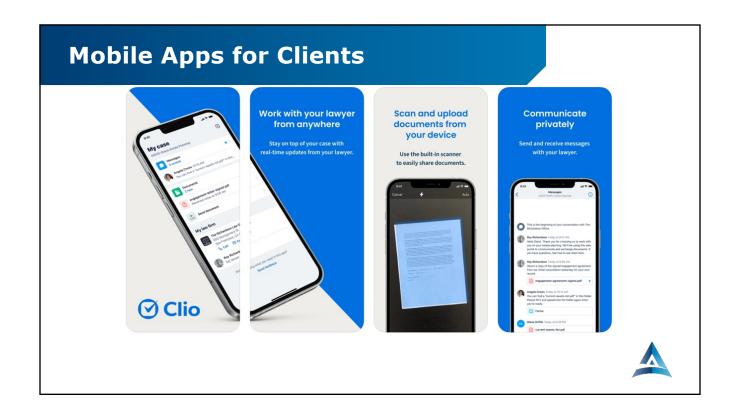
Dear Harry Ashwood,

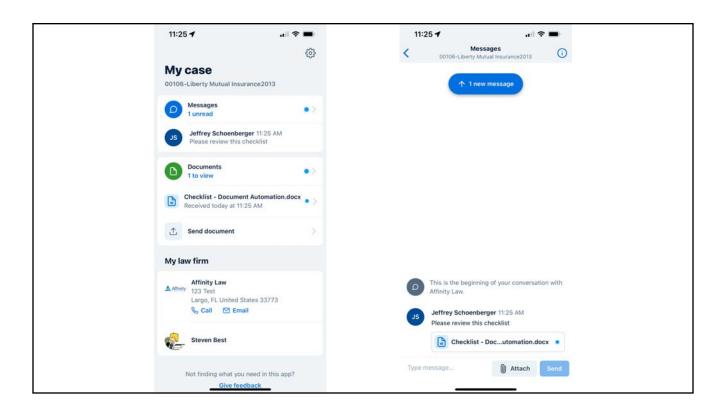


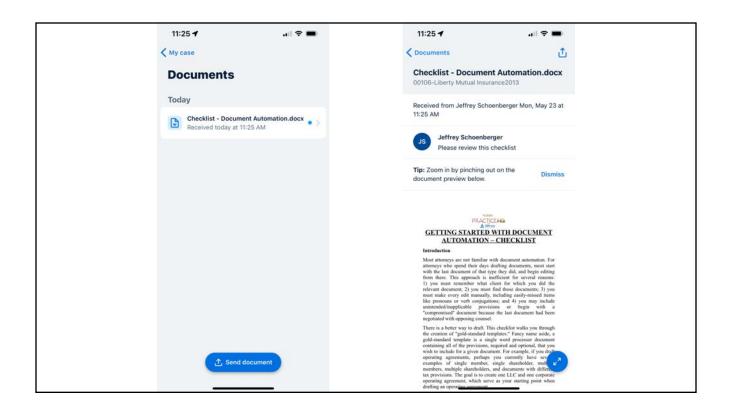
Don Draper invites you to view a shared message using Clio Connect.

Click the link below to view the message using your Clio Connect credentials. Creating an account is easy and only takes a few seconds!











Rule 5.1. Responsibilities of Partners, Supervisory Lawyers, and Law Firms (a) Every law firm, government entity, and organization authorized by the Court Rules to practice law in this jurisdiction shall make reasonable efforts to ensure that member lawyers or lawyers otherwise participating in the organization's work undertake measures giving reasonable assurance that all lawyers conform to the Rules of Professional Conduct. (b) A lawyer having direct supervisory authority over another lawyer **Rule 5.1** shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct. (c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if: (1) the lawyer orders or ratifies the conduct involved; or (2) the lawyer having direct supervisory authority over the other lawyer knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

• Rule 5.2

Rule 5.2. Responsibilities of a Subordinate Lawyer

- (a) A lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person.
- (b) A subordinate lawyer does not violate the Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

• Rule 5.3

Rule 5.3.

Responsibilities Regarding Nonlawyer Assistance

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- (a) every lawyer, law firm or organization authorized by the Court Rules to practice law in this jurisdiction shall adopt and maintain reasonable efforts to ensure that the conduct of nonlawyers retained or employed by the lawyer, law firm or organization is compatible with the professional obligations of the lawyer.
- (b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- (c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
 - (1) the lawyer orders or ratifies the conduct involved;
 - (2) the lawyer has direct supervisory authority over the person and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action; or
 - (3) the lawyer has failed to make reasonable investigation of circumstances that would disclose past instances of conduct by the nonlawyer incompatible with the professional obligations of a lawyer, which evidence a propensity for such conduct.

Secured Work Area

- Require your users to work in a space that is reasonably secure
- Closed door for private phone calls
- Locked room to secure equipment and your client data
- It might seem inconvenient but it's your business, license and livelihood on the line



Photo by Nic Y-C on Unsplash

Home Wireless Routers

- No WEP Encryption
- At Least WPA2 Encryption (WPA3 is coming; software update to <u>some</u> routers)





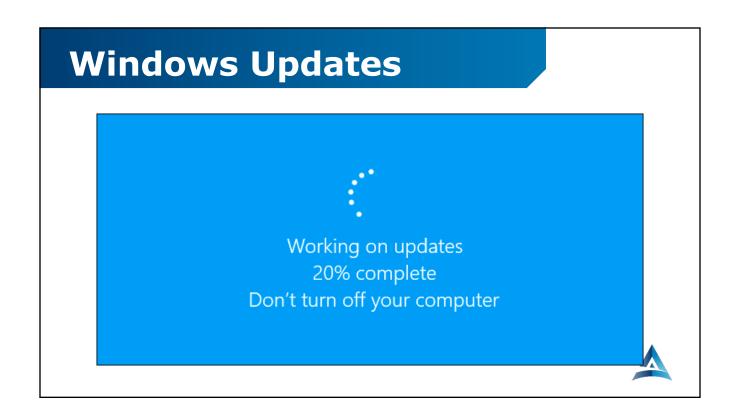


AntiVirus / Malware Protection Carbon Black New AI Based Windows Defender Malwarebytes

- Norton 360
- McAfee
- AVG







Password Management





Password Managers

- Too many passwords and logons to track
- Strong passwords
- Use different passwords for different services
- Holds credit cards
- · Holds any kind of personal info



Password Managers







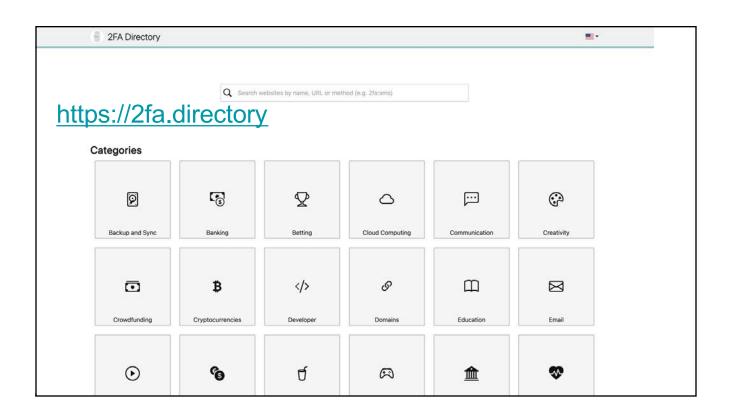




2-Factor Authentication

- Requires 2 authentication factors to verify identity
- **Knowledge factors something you know**
- Possession factors ID card, security token or smartphone
- **Inherence factors biometrics**







2 Factor Authentication Apps

- Authy by Twilio
- Google Authenticator
- Microsoft Authenticator
- Duo Mobile

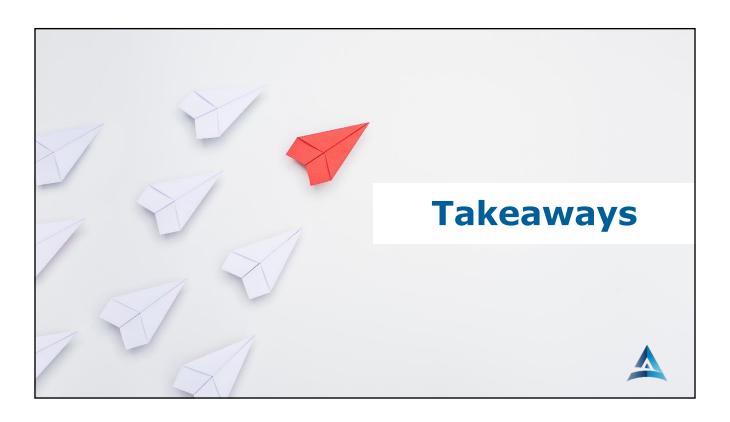


Educate Users

- Phishing Scams
- Don't Click on Unknown Links!
- Call Before you Click!
- Imposters are Tricky
- Be Slightly Paranoid







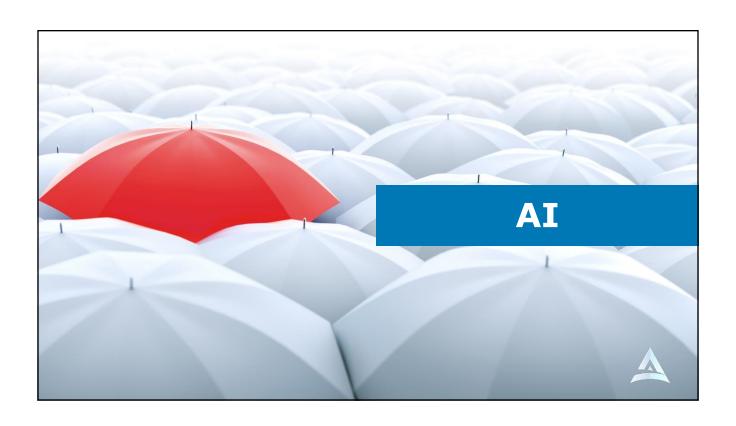
Takeaways

Working from home is here to stay

Competence requires using modern technology designed for remote work

Confidentiality requires we secure client data on our computers whether they are in the office or at home

Proper supervision of your users includes knowing what technology they are using from home and that they are using it properly



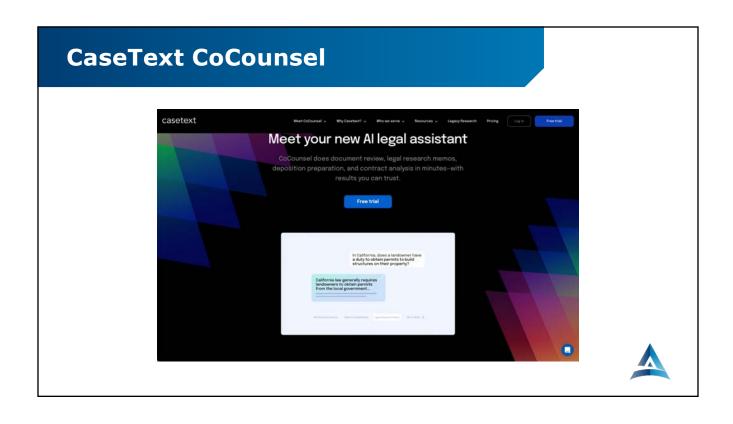
How to Start Using ChatGPT



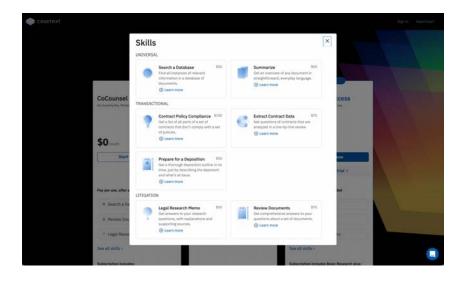
- Create an OpenAI account
- Go
 to chat.OpenAi.com and
 register for an account
 with an email. You need
 to create an account to
 log in and interact with
 ChatGPT
- Premium account \$20/month







CaseText CoCounsel





Caution! ChatGPT can be wrong

- It said that lawyers had no duty to be competent with their technology it is still learning!
- Update: One week later, the answer has changed and it now cites legal ethics rules









Metadata is Hidden Information in a File

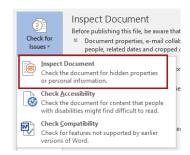
Metadata Examples (Pitfalls)

- Your name
- Your initials
- Your company or organization name
- The name of your computer
- The name of the network server or hard disk where you saved the document
- Other file properties and summary information
- Non-visible portions of embedded OLE objects

- The names of previous document authors
- Document revisions (number of revisions and duration of revisions)
- Document versions
- Template information
- Hidden text
- Comments

Metadata Pitfalls

- Removing metadata from Word 19/21/365 files: File menu ➤ Check for Issues ➤ Inspect document
- This Feature is Absent in Word for Mac



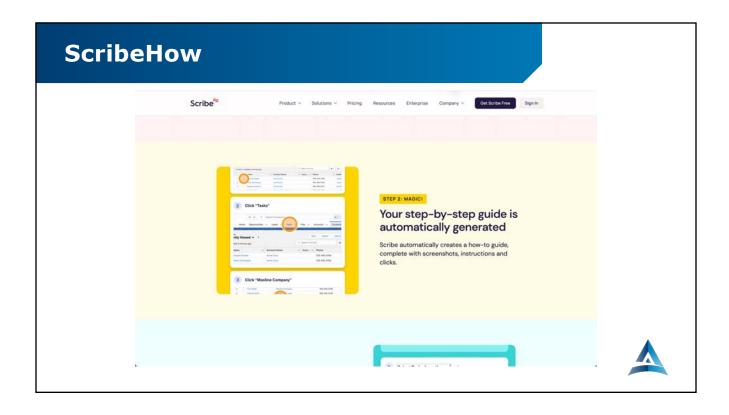
Metadata Pitfalls

- Removing Metadata from PDFs
 - Acrobat DC, Tools ➤ Redact

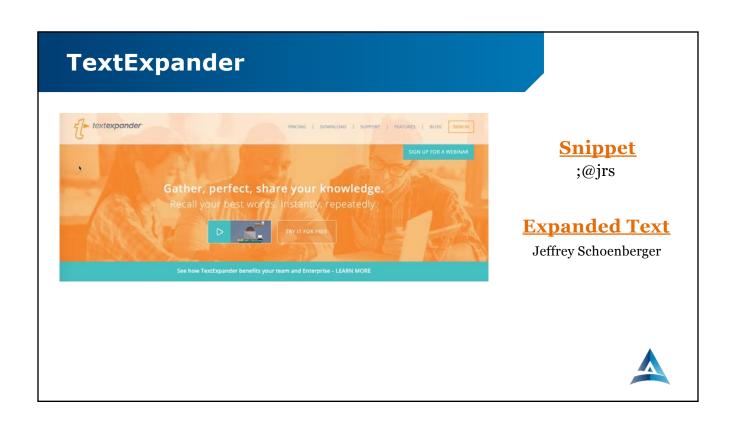


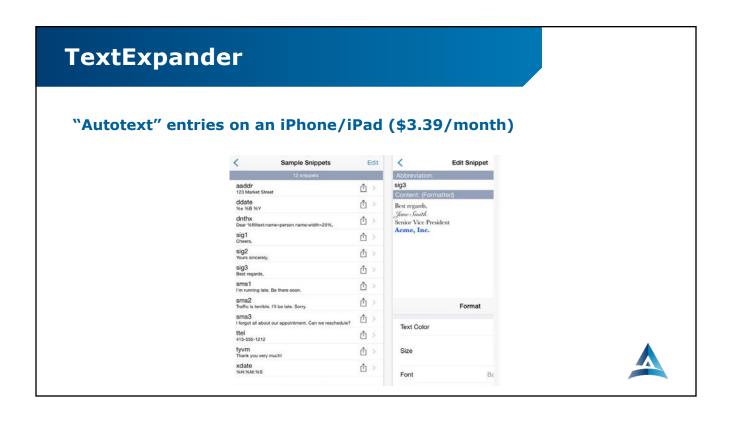


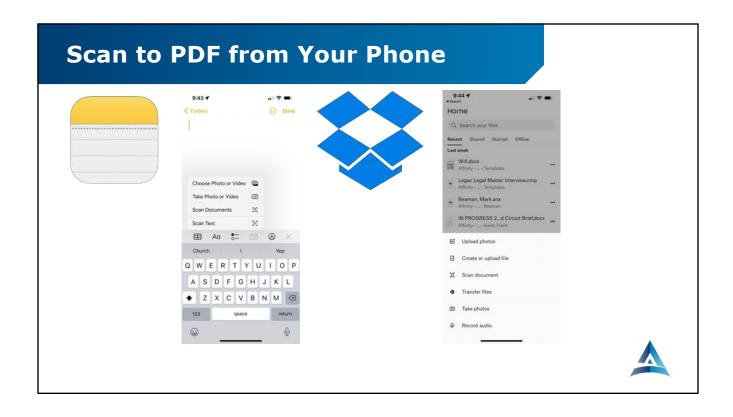








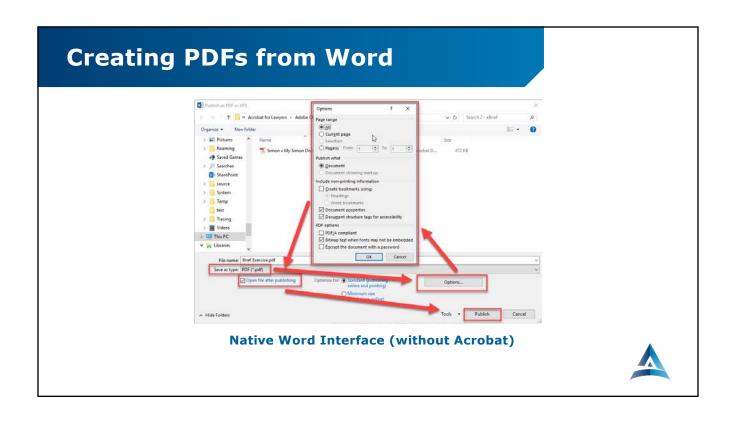


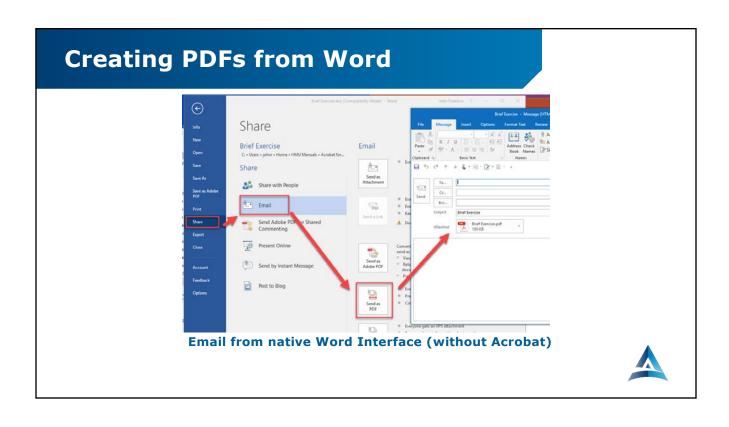


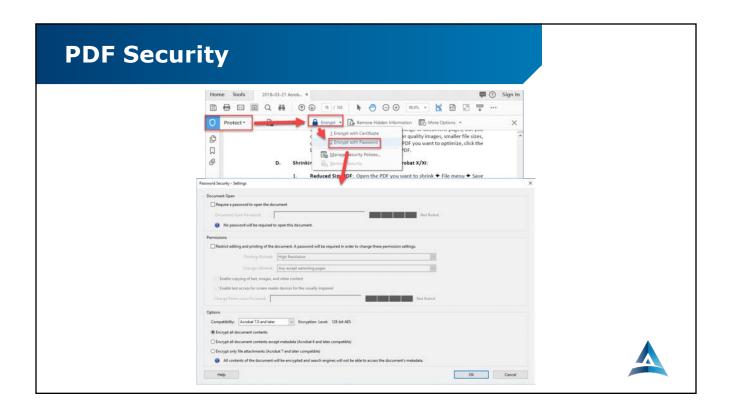


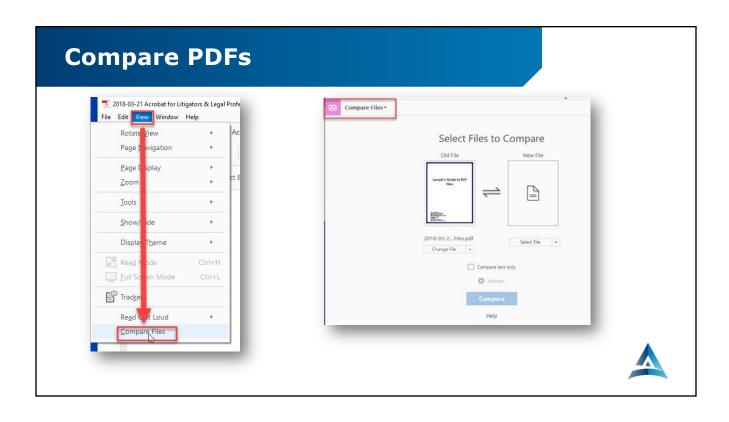












Redacting PDFs

- You must use the Redaction Tool.
- DO NOT DRAW BLACK BOXES WITH THE COMMENT TOOLS!



Reasonable Steps

You need to understand the risks & benefits of relevant technology.

1:38-7. Confidential Personal Identifiers

(a) Definition of Confidential Personal Identifiers. A confidential personal identifier is a Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, or active credit card number, or information as to an individual's military status.

(e) Redaction of Required Personal Identifiers. When confidential personal identifiers as defined in R. 1:38-7(a) are required by statute, rule, or court order to be included in documents or pleadings, such identifiers shall be redacted before public inspection is permitted. This redaction requirement, however, does not apply to driver's license numbers that the New Jersey Motor Vehicle Commission requires in documents pertaining to the suspension and reinstatement of licenses.

Redacting PDFs

Authorities botched attempt to redact report on Florida school massacre

By Michael Hechtman

August 4, 2018 | 9:40pm | Updated



Getty Images

School officials in Florida need to sign up for remedial computer courses

Authorities in Broward County, Fla., tried to literally cover up parts of a report on the Parkland school massacre — but failed because they didn't know that the sections they blacked out became visible when pasted into another computer file.

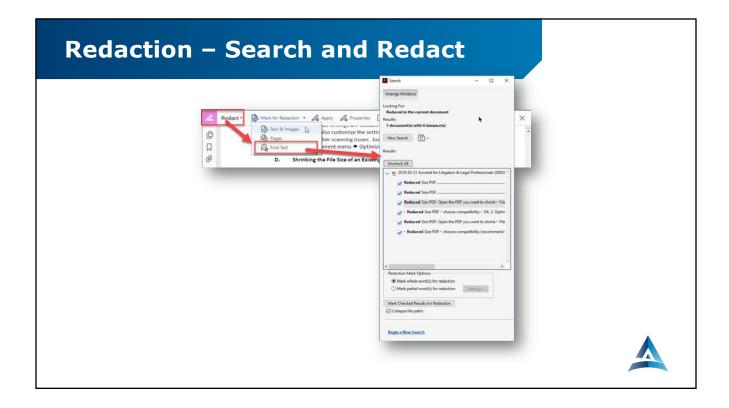


Redaction - Manual

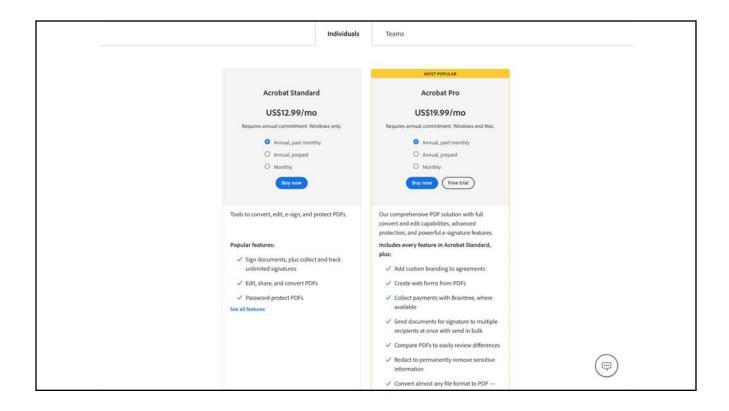
- 1. Save your document with a different name
- 2. Mark areas for Redaction
- 3. Apply Redactions
- 4. Save











Digital Signatures

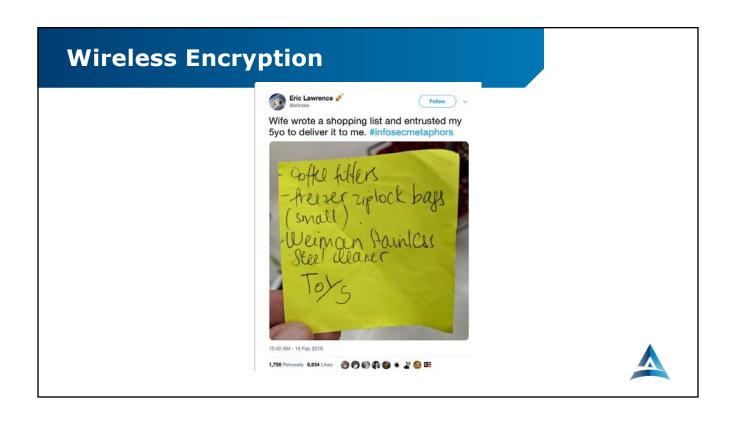
DocuSign[®]

DocuSign

Personal \$10 / user / mo. Standard \$25 / user / mo. Business Pro \$40 / user / mo.



E-Signature Comparison Chart (Included with subscription to Acrobat Stan-dard or Pro, which start at \$12.99 /user/month Standard starts at \$25.00 /user/month Pro starts at \$39.99 /user/month Standard starts at \$25.00 /user/month Business starts at \$49.00 /user/month Free Tier & 14 Day Free Trial 30 Day Free Trial Free Tier 30 Day Free Trial Free Tier or Free Trial Integrates with NetDocu-ments See Integrations List See Integrations List See Integrations List Other Integrations 0 0 0 0 0 All Business Target Market All Business All Busines All Business All Business Cloud vs. on-premise Cloud Cloud Cloud 0 (Rest - \$\$\$) Yes Enterprise (10 with profer plan) (15 with standard plan) \odot 0 0 0 0 0 Yes (Roles) Yes (Roles)





Additional Tips

- Don't share your computer with anyone.
- Don't work in a public area.
- Don't go to strange websites.
- Do purchase malware protection.



(Brian) Krebs on Security





Kreb's 3 Basic Rules for Online Safety

Three Rules

- 1. If you didn't go looking for it, don't install it!
- 2. If you installed it, update it... especially for Windows and macOS
- 3. If you no longer need it, remove it.



