

# Managing Your Electronic Files



Law Society  
of Saskatchewan

**Craig Zawada, K.C.**  
Senior Counsel, Procido LLP



## What We'll Cover

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- Rules for electronic materials
- Key differences between electronic and physical
- Managing electronic files
- Security





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# Rules & Laws



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# The Electronic Information and Documents Act, 2000

## Legal recognition

**6** Any information or document to which this Part applies shall not be denied legal effect or enforceability solely by reason that it is in an electronic form.

2000, c.E-7.22, s.6.

# **The Electronic Information and Documents Act, 2000**

## **Requirement for information to be in writing**

**8** A requirement pursuant to any law that any information or document be in writing is satisfied if the information or document:

- (a) is in an electronic form; and
- (b) is accessible so as to be usable for subsequent reference.

2000, c.E-7.22, s.8.

## **Providing information in writing**

**9** A requirement pursuant to any law for a person to provide any information or document in writing to another person is satisfied if the person provides the information or document in an electronic form and the information or document:

- (a) is accessible by the other person; and
- (b) is capable of being retained by the other person so as to be usable for subsequent reference.

2000, c.E-7.22, s.9.

# The Electronic Information and Documents Act, 2000

## Use not mandatory

7(1) Nothing in this Part requires a person to provide, receive or retain any information or document in an electronic form.

(2) Subject to subsection (3), a person's consent to provide, receive or retain any information or document in an electronic form may be inferred from the person's conduct.

(3) A public body is not presumed to consent to accept information or a document in an electronic form unless it expresses its consent by communication accessible to the public or to those likely to communicate with the public body for particular purposes.

2000, c.E-7.22, s.7; 2002, c.18, s.6.

# The Electronic Information and Documents Act, 2000

## Exceptions

4(1) This Part does not apply to:

- (a) wills;
  - (b) directives within the meaning of *The Health Care Directives and Substitute Health Care Decision Makers Act, 2015*;
  - (c) trusts created by wills;
  - (d) powers of attorney, to the extent that they concern the financial affairs or personal care of an individual;
  - (e) **Repealed.** 2016, c15, s.3.
  - (f) any other provisions, requirements, information or documents prescribed in the regulations.
- (2) Divisions 2 and 3 do not apply to negotiable instruments, including negotiable documents of title.
- (3) This Part does not apply to the filing of any document or information in an electronic format, or the direct transmission of any document or information to an electronic database, pursuant to an Act that is designated pursuant to Part III.

2000, c.E-7.22, s.4; 2002, c.18, s.4; 2015, c.11, s.3; 2016, c15, s.3.

# Law Society of Saskatchewan Rules

## Rule 1503

### Recordkeeping for Cash Transactions

(6) Every member, in addition to existing financial recordkeeping requirements to record all money and other property received and disbursed in connection with the member's practice, shall maintain;

- (a) books of original entry identifying the method by which money is received in trust for a client; and
- (b) a book of original entry showing the method by which money, other than money received in trust for a client, is received.

...

(8) The financial records described in subrules (6) and (7) may be entered and posted by hand or by mechanical or electronic means, but if the records are entered and posted by hand, they shall be entered and posted in ink.

# Law Society of Saskatchewan Rules

1518 (1) A firm's books, records and accounts shall be maintained in Saskatchewan and shall be:

- (a) in legibly handwritten form, in ink or other duplicated or permanent form;
- (b) in printed form; or
- (c) subject to subrule (2), in electronic form.

(2) A firm using a computerized accounting system shall:

(a) print the following records monthly:

- (i) trust journal;
- (ii) trust reconciliation including client trust listing; and
- (iii) trust property record.

...

(d) maintain an electronic backup of the accounting records updated on a weekly or more frequent basis in a safe and secure offsite location.

# Law Society of Saskatchewan Rules

## 1545 Documents and Information for Verification

(6) For the purposes of subrule (1)(b), the client's identity must be verified by referring to the following documents, which must be valid, original and current, or the following information, which must be valid and current, and **which must not include an electronic image of a document...**

## Recordkeeping and Retention

1546(1) A member must obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of subrule 1545(1).

**(2) The documents referred to in subrule (1) may be kept in a machine-readable or electronic form, if a readable paper copy can be readily produced from it.**

(3) A member must retain a record of the information with the applicable date and any documents obtained for the purposes of Rule 1542 and subrule 1545(3) and copies of all documents received for the purposes of subrule 1545(1) for the longer of:

- (a) the duration of the lawyer and client relationship and for as long as is necessary for the purpose of providing service to the client; and
- (b) a period of at least six years following completion of the work for which the member was retained.



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# **Format Differences**

## **Electronic v. Physical**



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# Multiple Copies



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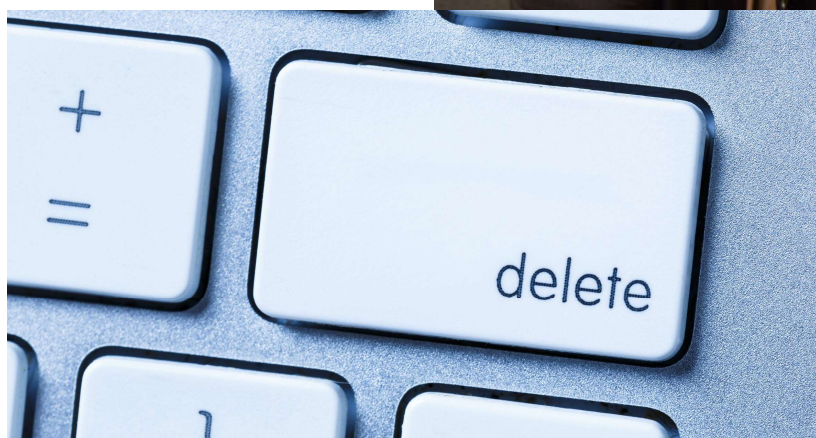
A decorative graphic on the left side of the slide, consisting of three overlapping, wavy, leaf-like shapes. The top two are a light beige color, and the bottom one is a light blue color.

# Worldwide Exposure



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# Different Risks



A decorative graphic on the left side of the slide, consisting of three overlapping, wavy, leaf-like shapes. The top two are light beige, and the bottom one is a muted blue-grey.

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# Searchability



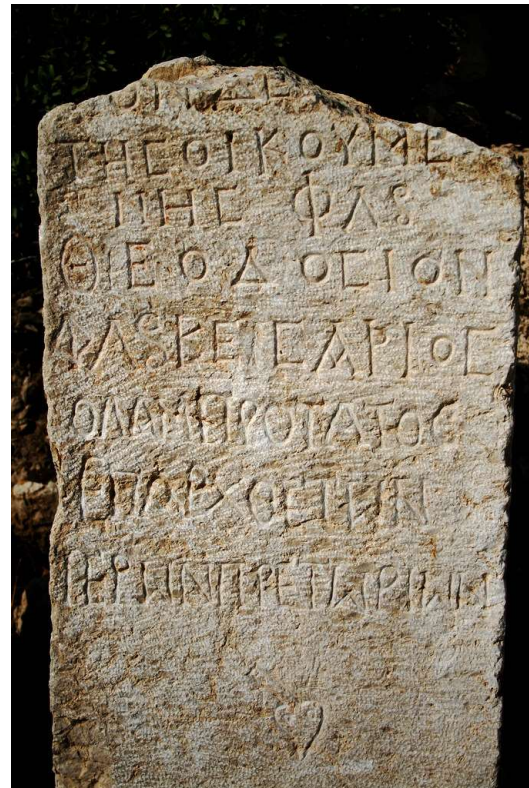
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# Storage Cost & Space



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# Immutability



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# Storage Philosophies



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# Organization Methods: Chaotic Storage



## Organization Methods: Mass Dumping

**Inbox (6,763)**

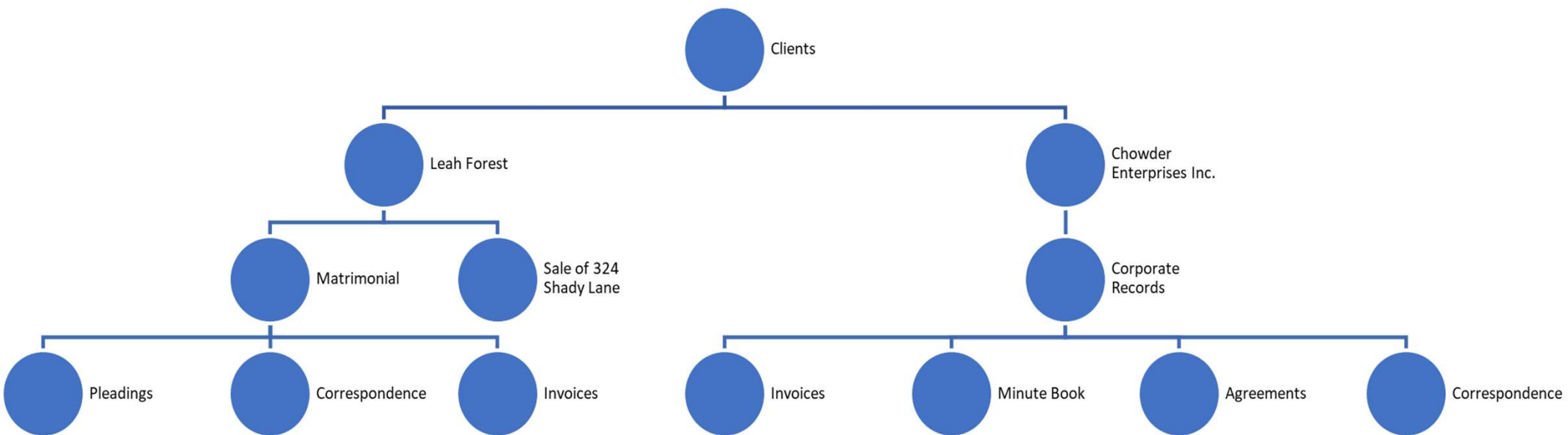


Inbox (6,763)

Important

Sent Mail

# Organization Methods: Hierarchical





## Structured Data

Often numbers or labels, stored in a structured framework of columns and rows relating to pre-set parameters.

 ID CODES IN DATABASES

 NUMERICAL DATA GOOGLE SHEETS

 STAR RATINGS



## Semi-unstructured Data

Loosely organized into categories using meta tags

 EMAILS BY INBOX, SENT, DRAFT

 TWEETS ORGANIZED BY HASHTAGS

 FOLDERS ORGANIZED BY TOPIC



## Unstructured Data

Text-heavy information that's not organized in a clearly defined framework or model.

 MEDIA POSTS, EMAILS, ONLINE REVIEWS

 VIDEOS, IMAGES

 SPEECH, SOUNDS

Source: <https://monkeylearn.com/blog/semi-structured-data/>



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# Naming Consistency



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# What is a File?



# Distinguishing Files

2023-2-23 invoice to client.docx

*and*

invoice to client.doc

Different computer files, but may be identical in content

# Small differences are significant

letter to Ella about settlement.docx

*and*

letter to Ella re settlement.docx

*and*

letter to Ella re - settlement.docx

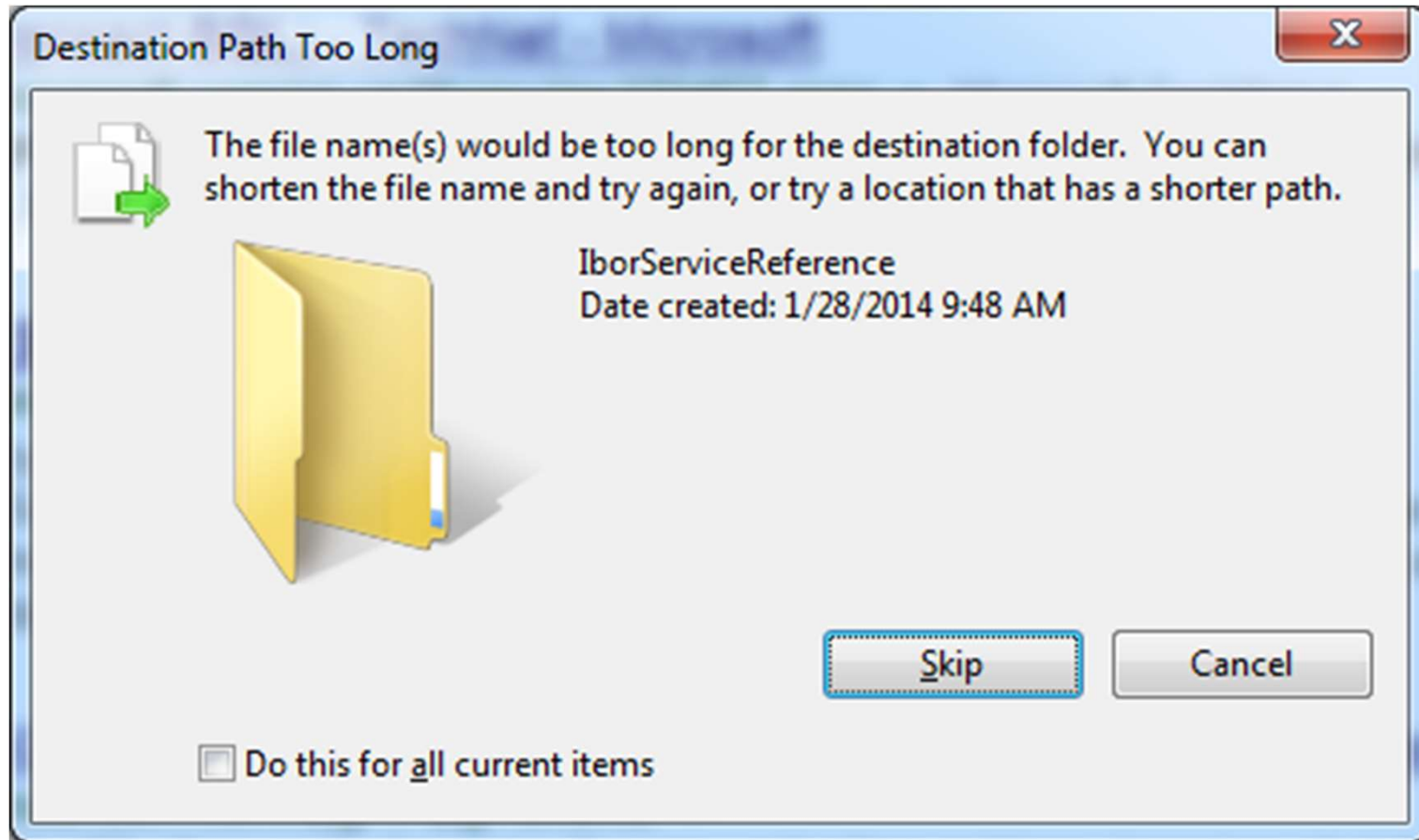
are all different files

With great power.

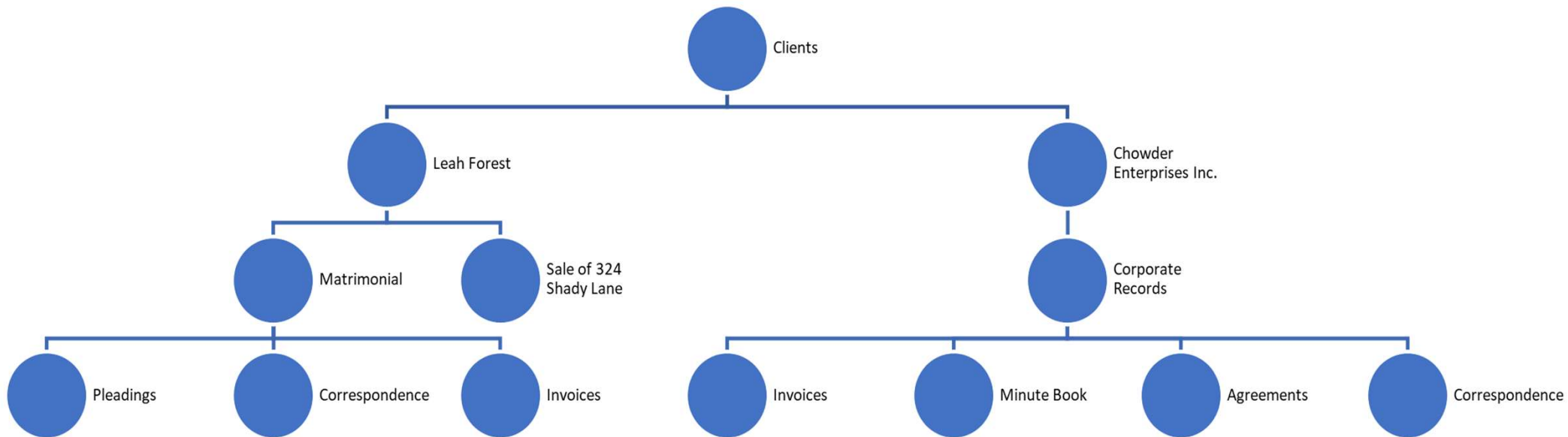


Must also come great responsibility.

# File System Constraints



# Opening Files & Ongoing Management





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# Storage & Disposal



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# Electronic only v. retaining paper



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# How Long?



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## Law Society of Saskatchewan Rules

1529(1) Subject to subrule (2), a member shall retain for at least six years all the books, records and accounts required to be maintained under this Part.

(2) Notwithstanding subrule (1), a member shall retain for at least 10 years the books, records and accounts referred to in subrule 1519(a) and (b) and subrule 1520(c), unless the Executive Director authorizes in writing a shorter retention period.

## Law Society of Saskatchewan Rules

1524(1) A firm shall ensure that a monthly trust reconciliation is prepared for each pooled trust account and SIBA showing...

...

(5) Completed monthly trust and non-trust reconciliations shall be reviewed, signed and dated by a member not more than 30 days after the end of the period to which it pertains.



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**How long?  
NOT forever**



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## Not Forever: Privacy Laws



# Not Forever: Security



# Closing Files

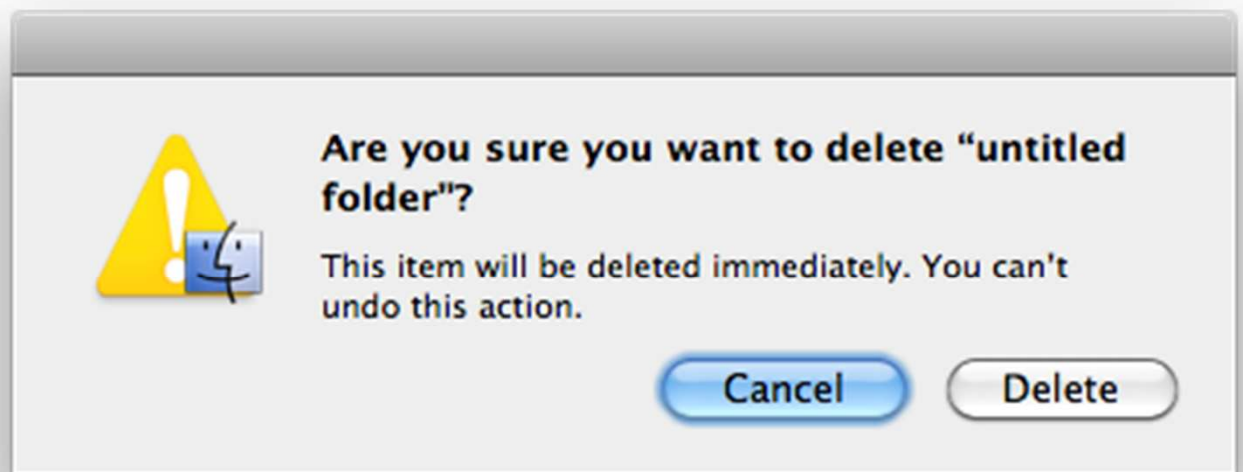


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# File Stripping



# File Destruction



# Don't forget the trash



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# Security



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# Access Control



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# User Training



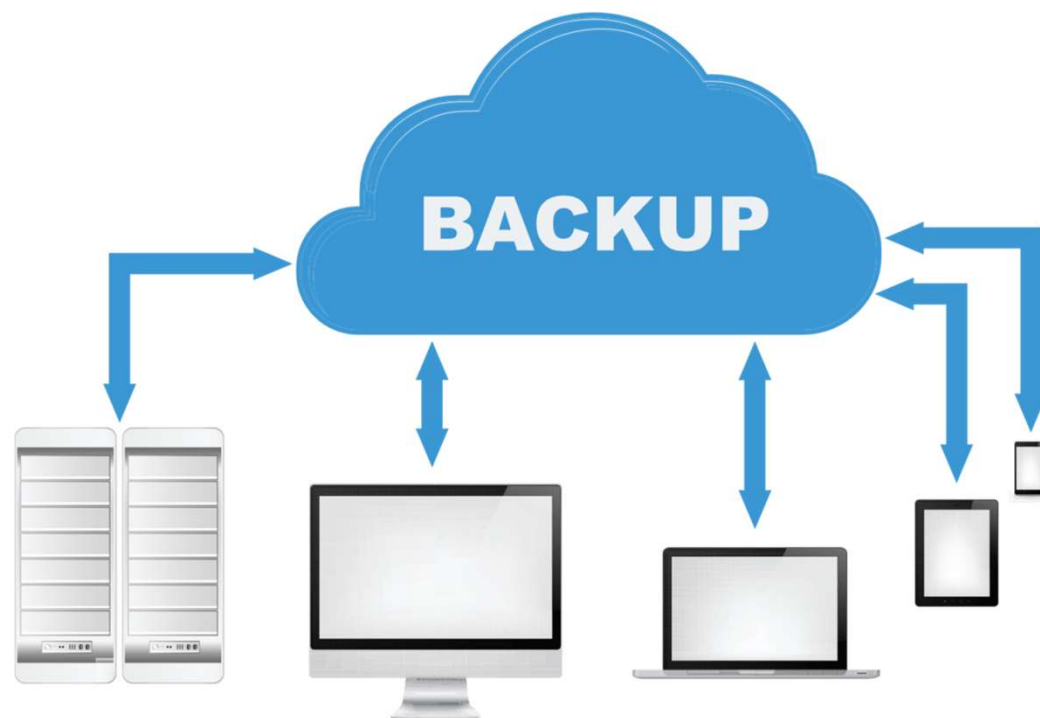
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# Device Security



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# Backups



# Law Society of Saskatchewan Rules

1517 (2) A firm using a computerized accounting system shall:

(a) print the following records monthly:

- (i) trust journal;
- (ii) trust reconciliation including client trust listing; and
- (iii) trust property record.

(b) print the client trust ledger cards:

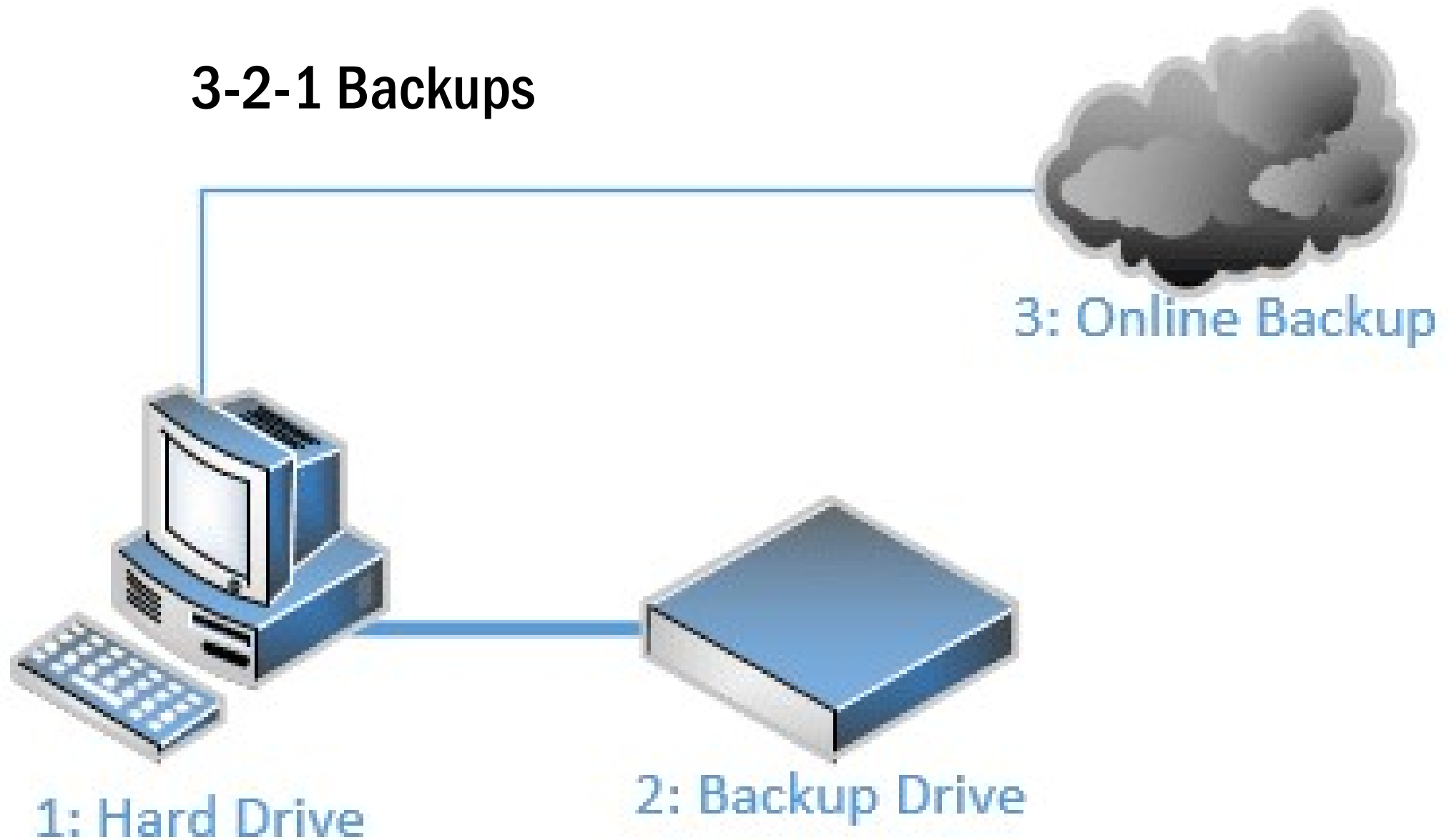
- (i) monthly, unless they can be printed in their entirety upon demand; and
- (ii) at the conclusion of the matter and store a complete copy in the client file.

(c) print the following records monthly, unless they can be printed in their entirety upon demand:

- (i) general journal;
- (ii) general bank reconciliation;
- (iii) billing journal;
- (iv) accounts receivable detail and listings; and
- (v) billings for all fees, charges and disbursements in chronological or numerical order.

(d) maintain an electronic backup of the accounting records updated on a weekly or more frequent basis in a safe and secure offsite location.

## 3-2-1 Backups



# Avoid Obsolescence



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# More Information

- <https://www.lawsociety.sk.ca/wp-content/uploads/2020/04/digitalfilemgmtjan2018.pdf>
- <https://www.lawsociety.sk.ca/wp-content/uploads/2020/04/fileretentionnov08.pdf>





# Thanks!

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**Craig Zawada, K.C.**

**Procido LLP**

**[craig.zawada@procido.com](mailto:craig.zawada@procido.com)**