

# Technology eReport



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## FACTA's "Red Flags" Rule May Apply to Law Firms

By Aaron Brooks

On March 20, 2009, the Federal Trade Commission published "Fighting Fraud With Red Flags Rule: A How-To Guide for Business." This latest compliance guide stresses the breadth of the Red Flags Rule, echoing other commentary that the rule may affect many businesses, nonprofits, and professionals who are unaware that they fall within the scope envisioned by the enforcing agencies.

According to the guidance offered thus far by the FTC, it appears that most law firms will be subject to the rule. Your firm may, therefore, need to put a written identity theft prevention program in place if it has not already. At this point, there is no way of knowing how strictly the FTC will enforce the rule against the legal profession. Nevertheless, enforcement is began on May 1, 2009.

## Background

The rule is found in sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003 (FACTA), which Congress passed in part in response to the growing threat of identity theft. Briefly put, the rule requires "covered entities" to conduct a risk assessment to determine if they have "covered accounts." If so, the entity must develop and implement a written identity theft

prevention program to identify, detect, and respond to “red flags”—suspicious circumstances that indicate the risk of identity theft.

The FTC, jointly with the federal bank regulatory agencies and the National Credit Union Administration, issued its final rules and guidelines implementing the rule on November 9, 2007. The mandatory compliance date was November 1, 2008. However, due to the surprising scope of the rule—many entities indicated that they generally were not required to comply with FTC rules in other contexts and were not aware they fell under FACTA’s definition of creditor—the FTC suspended enforcement of the rule until May 1, 2009. Ironically, this serves as a “red flag” of sorts to law firms, that they also may be covered by the rule.

## Who Must Comply

The rule applies to “financial institutions” and “creditors” with “covered accounts.” The definition of financial institutions, as would be expected, includes banks, credit unions, and savings and loan associations. It is the definition of creditor, though, that seems to encompass law firms, as well as numerous other nonfinancial entities that regularly bill their clients after services are rendered.

### *“Creditors” Under FACTA*

According to the regulations, the term “creditor” in FACTA has the same meaning as in section 702 of the Equal Credit Opportunity Act (ECOA). The ECOA defines creditor as “any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.” Credit, in turn, is defined in the ECOA as “the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.”

Courts that have interpreted the ECOA have given an expansive meaning to these terms, which is in line with the FTC’s guidance for FACTA. In its publication “The ‘Red Flags’ Rule: What Health Care Providers Need to Know About Complying With New Requirements for Fighting Identity Theft,” the FTC expressed that “credit” is simply an arrangement by which “payment is made after the product was sold or the service was rendered.” In other words, the definition of creditor may encompass any invoice billing arrangement, including those often used by attorneys, physicians, manufacturers, and countless other businesses that do not require immediate payment for their products or services.

Further evidence that law firms may be “creditors” subject to the rule is found in a letter from the FTC to the American Medical Association, dated February 4, 2009. In that letter, the FTC cited the Federal Reserve Board’s position that the terms “creditor” and “credit” under the ECOA should be interpreted broadly to include all entities that defer payments, even in the normal course of the billing

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process. According to the Official Staff Commentary,

[i]f a service provider (such as a hospital, doctor, lawyer, or merchant) allows the client or customer to defer the payment of a bill, this deferral of a debt is credit for purposes of the regulation, even though there is no finance charge and no agreement for payment in installments.

Also noteworthy is that the FTC has issued a general warning to those entities that do not typically consider themselves to be creditors that they may be covered. It recently stated:

It's important to look closely at how the Rule defines "financial institution" and "creditor" because the terms apply to groups that might not typically use those words to describe themselves. For example, many non-profit and government agencies are "creditors" under the Rule. The determination of whether your business or organization is covered by the Red Flags Rule isn't based on your industry or sector, but rather on whether your activities fall within the relevant definitions.

The FTC has already concluded that "[h]ealth care providers are creditors if they bill consumers after their services are completed." Taken to its logical end, any entity that does not require immediate payment for goods or services could be considered a "creditor."

### *Covered Accounts*

Creditors that have "covered accounts" are required to develop and implement a written identity theft prevention program. There are two types of covered accounts: (1) an account . . . primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions; and (2) any other account . . . for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft.

The first type of covered account is a consumer account. Examples include "a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account." The FTC has stated that, for healthcare providers, this type of account includes continuing relationships with consumers for the provision of medical services. It stands to reason, then, that covered accounts may also include continuing relationships with individual clients for the provision of legal services.

The final rules and regulations note that many industry commenters requested that the agencies limit the final rules to consumer accounts, where identity theft is most likely to occur. However, the agencies decided to maintain the second

type of covered account as well. The regulations state that this “reflects the Agencies’ belief that other types of accounts, such as small business accounts or sole proprietorship accounts, may be vulnerable to identity theft.” Therefore, covered accounts likely include your firm’s business client accounts.

## **The Scope of FACTA Compared to the Gramm-Leach-Bliley Act**

When the Gramm-Leach-Bliley Act (GLBA) was passed in 1999, the FTC determined that attorneys were “financial institutions” under the Act and sought to enforce the act against the legal profession. The underlying purpose of GLBA—not unlike the Red Flags Rule—was to protect consumers’ personal information. Covered institutions were required to develop a privacy policy, provide privacy notices to customers, and develop a system to protect the confidentiality and security of the consumers’ information.

The American Bar Association (ABA) requested an exemption for attorneys from the requirements of GLBA. When the FTC refused to grant the exemption, the ABA and the New York State Bar Association filed suit against the FTC seeking a declaratory judgment that would effectively exempt attorneys from the act. The court ultimately held that attorneys were not financial institutions under the definition of GLBA. Therefore, despite the initial jeopardy of application to practicing attorneys and the attempt at enforcement, attorneys did not have to comply with the act.

It is important that you not mistake the successful deflection of GLBA from the legal profession with a likelihood that the Red Flags Rule will also not be applicable to, or enforced against, attorneys. There are significant differences in the scope of the two acts. These differences suggest that, if the FTC attempts to enforce the Red Flags Rule against law firms, it will be more successful than its efforts were with GLBA.

For starters, GLBA only applies to “financial institutions.” At the time GLBA became effective, there was considerable debate as to whether attorneys engaged in “financial activities,” with the FTC citing tax and estate planning work as examples. The Red Flags Rule is clearly broader, applying to both financial institutions and creditors. Under FACTA, the definition of “creditor” is more likely to encompass law firms than the definition of “financial institutions” under GLBA.

GLBA’s applicability is further limited in that it only protects “consumers.” Business entities derive no protection from the act. By contrast, the Red Flags Rule is designed to protect both consumers and businesses. This draws a far greater number of law firm accounts within the ambit of FACTA. Taken together, these distinctions in scope between the acts indicate that the Red Flags Rule may be more applicable to law firms than GLBA.

## **How to Comply**

A creditor with covered accounts must implement a written identity theft prevention program. The FTC has made clear that a low-risk entity, based on its initial risk assessment, can have a simple and straightforward program. Creditors are given flexibility to implement a program that best suits their business or organization and may incorporate into the program any of their existing procedures to combat identity theft. Nonetheless, a written program that has been approved by the board of directors, a designated committee, or an appropriate senior employee must be in place.

Each program must include policies and procedures to (1) identify the red flags of identity theft that that particular entity is most likely to come across in its business; (2) detect those red flags in its day-to-day operations; (3) respond appropriately to any detected red flags to prevent and mitigate identity theft; and (4) update the program periodically to account for new and changing risks of identity theft.

Appendix J of the agency guidelines lists 26 examples of possible red flags. As attorneys, the receipt of suspicious documents that appear to be altered or forged or dubious personal identifying information from clients or potential clients would likely be the most common red flags. Of course, notice from a client that he did not receive particular legal services that he was billed for, or notice from a client that he or she may be the victim of identity theft, are also clear red flags.

If an attorney or employee encounters a red flag, oftentimes the most appropriate response is to simply notify the client of the issue and perhaps request additional identifying information. The FTC has indicated that covered entities may, in their discretion, determine that no response is necessary. However, certain circumstances may indicate the need for a more aggressive response, such as carefully monitoring account activity, denying a request to open a new account or closing an existing account, or even contacting law enforcement.

Once the program is approved, it is then the responsibility of the covered entity to effectively administer and oversee the program. This should include training employees to recognize red flags, notifying service providers who may receive access to covered accounts—such as system administrators—that their activity must comply with an identity theft prevention program, and periodically reviewing the success of the program.

## **Take Action, Attorneys and Clients**

Although many of us have taken steps to help our clients comply with the Red Flags Rule, our firms may need to take some of their own steps as well. Columbus, Ohio attorney Jack Gravelle was one of the first to recognize this in his article “Lawyers rush to advise on new identity theft rules,” which appeared in *LawyersUSA*. He opined that, “[t]o the extent that firms extend credit by billing clients rather than accepting payment at the time of service, they appear to fall under the definition [of creditor].”

Many others have chimed in through blog posts and bar association articles that attorneys may need to implement their own identity theft prevention program. The enforcement date has come and gone, and so attorneys should now consider addressing any risks to identity theft that may exist in their own practice.

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How small and solo law firms are leveraging electronic discovery to cut costs, save time, and win more cases.

## Try Not to Let the Gigabyte You: How Small and Solo Law Firms Are Leveraging Electronic Discovery to Cut Costs, Save Time, and Win More Cases

By Michael Swarz

By now the news that the recent electronic discovery related amendments to the Federal Rules of Civil Procedure (FRCP) have become a reality are old hat to most small and solo law firms. What matters more to the small shop attorney is how to overcome the substantial hurdles that the new rules place on their firm.

To start, there are the high costs that a small firm may incur when obtaining vital electronic stored information (ESI) to be used as evidence. How can a small firm curtail ediscovery expenses? Next, a large firm may deliberately bog down a solo practitioner with superfluous discovery to diminish the solo practitioner's fiscal and personnel resources. Are there simple methods to manage voluminous amounts of data? Finally, a small firm may be required to work with an outside electronic discovery expert to assist in reduction the extent of a data search, assess what discovery should be readily or advise on which format the discovery should be produced. When and how does a small firm engage electronic discovery experts?

Whether and how small and solo law firms grapple with these issues can—and will

—determine whether their next case that involves ediscovery fails or succeeds.

## Strategies to Lower Your Firm's Ediscovery Price Tag

Step one to lowering the costs of electronic discovery for small and solo law firms is always education. Only by comprehending completely what ESI is available during discovery and how it is transmitted and stored will these firms be able to slash their discovery expenses. This understanding must include how the data is stored, how it can be searched, and the format it is stored in. Having this knowledge is powerful, especially when competing against a large firm. It will enable the small firm to effectively and proficiently attain the needed discovery in a time- and cost-effective manner.

One relatively low-cost method for small and solo law firms to learn about ESI is to conduct some basic Internet research. In addition, there are numerous experts, as noted below, to consult with on issues that relate to ediscovery. Take a look at their websites to get a gist on relevant terminology and the ediscovery sphere the firm will be walking into. Talking with any technologically savvy colleagues the firm may have about electronic data will help as well in gaining the knowledge necessary to take on the large firm.

After your firm has a grasp on the electronic data needed, have a conversation with the firm's information technology expert. At this point make sure to ask the IT expert to go over how email is maintained, the variety of available backup systems, and the meaning of deleted files. Only then should questions that relate to the case be asked of the IT professional. When conducting this conversation, be sure to ask about the universe of data that may be available and compose a plan of action to retrieve the data. Performing internal industry research and using the know-how of the firm's IT professional are low-budget, low-effort ways that small and solo firms can easily capitalize on to obtain excellent results from the important data the case needs, no matter the opponent.

Next, to lower ediscovery costs, small and solo law firms must settle on the scope of electronic data to be examined. Small firms must pinpoint their needs and determine which evidence is necessary to win the case. Once this information is determined, small and solo firms will then know whether the ESI in question will indeed help the case.

To know when to go after a specific email, thumb drive, or laptop, small and solo law firms need to take a step back and plan their electronic discovery strategically. Think about it this way: Plain and simple, if the case lacks a foundation, it will crumble. To create this foundation, the small firm will need to effectively use all of the arrows in its proverbial discovery quiver to outwit a larger firm with more resources. These are inspections, requests for production, interrogatories, depositions, and requests for admission. Being smart as to how and when to use these tools before jumping into ediscovery will help small firms determine whether a particular piece of ESI is a must-have or a can-do-without.

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Once the firm has an understanding of what ESI is available and which ESI it needs, the amount of ediscovery to be conducted will be minimized. As a result small and solo law firms will reap the financial rewards of lower ediscovery costs and a preservation of firm resources. Be sure to request only the ediscovery essential to the firm's comprehensive, strategic discovery plan. This will substantially minimize the firm's prospective expenses, the time spent squabbling over these points, and the enormous number of hours the firm will need to allocate reviewing data that may be completely useless to the case.

## **Email, Spreadsheets, Hard Drives . . . and More Email: Is There Even a Needle in This Digital Haystack?**

A central tenet to any winning discovery plan is to know exactly what information is necessary to win the case. Of course, the flip side is also equally true. Realizing what data is not needed is equally critical to avoid wasting valuable firm time and resources. In order to realize the difference, small and solo law firms must focus only on what is needed to succeed. Furthermore, with the recently revised FRCP amendments, small firms will need to have a handle on these issues earlier on in the case lifecycle. Being proactive will help them avoid situations that will pointlessly slow down the case by obliging the firm to enter into a pricey ediscovery journey that will not get it any closer to its objective.

The FRCP amendments require all firms to discuss their ESI with opposing counsel during the *initial* scheduling conference. With the timing pushed up in Rule 26, firms are forced to make decisions early on as to what data they pursue. In particular, small and solo law firms should seize on scheduling conference and use its early occurrence to their advantage against larger firms by using their learned knowledge of ESI to pin the other side down early. In other words, set the terms with the other side by having a detailed, well-thought-out ESI battle plan for deployment before walking into the that first scheduling conference. By doing so, small and solo firms will have effectively narrowed the issues to which they can be obligated to produce and review documents and learned, early on, what their opponent's ESI position is. Consulting with the firm's IT professional will be invaluable at this stage to estimate production costs, draft discovery requests with the required amount of technical specificity, and evaluate the other side's data systems.

Once within the initial Rule 26 conference, small and solo firms should focus on opposing counsel's ability to preserve evidence. This includes the quantity and types of ESI in play as well as the name and location of any pertinent backup systems. Becoming familiar with the electronic storage systems *before* the conference is paramount in order for an ESI discovery plan to be properly discussed *at* the conference. To avoid ESI glitches along the way, small and solo firms should take their IT professional to the conference and suggest that their opponent follow suit.

To further limit the amount of data opposing big law can send out, small and solo

law firms should clearly state the format of production that will produce the optimum outcome for their case. FRCP Rule 34(b) grants parties this ability to designate the format for production. When the initial Rule 26 conference has concluded, small and solo firms should have a better grasp of what format to employ when requesting their discovery. Should the format of production not be clearly stated in the discovery request, small and solo firms must be advised that their then opposing counsel can demand the format in which it will provide the ESI. This will allow opposing counsel to produce the ESI in a reasonably usable format or as normally maintained—both of which may or may not be the best format for a small and solo law firm’s case.

Needless to say, small and solo law firms need to then conduct their internal research to determine the drawbacks and benefits to each format in order to succeed. This know-how involves mastering the four formats commonly used for the production and review of ESI. They are the following: native files (that is, in the form that the files are ordinarily kept on their source computers and storage media); printed paper; online repository tools containing responsive documents; and litigation support load files, TIFF images, extracted text, and metadata. Knowing which ESI formats will be most beneficial for the case while keeping costs down will give small and solo law firms a leg up over their large-firm competition.

### **Finding the Right, Affordable, Technology Expert**

An effective and low-cost method for small and solo law firms to retain basic IT expertise is to educate themselves on the options available in their local talent pool. This grouping may include university professors, IT personnel at mid-sized businesses, and graduate students from local IT technical institutions. These low-cost resources should not be ignored, as they represent effective ways for small firms to leverage IT expertise when challenging larger firms. These individuals will more than likely agree to work at a rate lower than conventional IT experts and on a part-time basis. Small and solo law firms should consider utilizing them as a nontestifying expert and maximizing their know-how to resourcefully gather the data needed from the opponent’s ESI.

For more extensive ESI advice, small and solo law firms should look to a competent and affordable ediscovery expert for guidance. This individual will give the firm an in-depth understanding of the relevant data systems and what types of information that is being sought by the opponent. Although bringing on an ediscovery expert may be counterintuitive to minimizing expenses, allocating a little on an ediscovery expert will save small and solo law firms a lot long term. Similar to any case, small and solo firms should seek the best expert available within their means. Just as a firm would not take on a medical malpractice case without conferring with a medical expert, it should not step into the world of ESI without a qualified, knowledgeable ediscovery expert.

The recent FRCP amendments, coupled with the intricacies of ediscovery, make retaining an ediscovery expert at the early stages of the case a priority for small

and solo law firms. In order to make the commitment to bringing on board an ediscovery expert affordable, think about alternative payment options with the expert. Small and solo law firms can settle on a flat rate fee per case or decide to simply have the expert on a retainer if they have a substantial caseload. In addition, ediscovery experts often employ knowledgeable junior associates at a lower rate. Small and solo law firms should be sure to request that their ediscovery expert have their associate work on their project in order to reduce expenses.

### Challenge or Opportunity?

Recent changes to the Federal Rules of Civil Procedure as they relate to ediscovery present unique challenges and opportunities to small and solo law firms. These hurdles are felt most acutely when allocating budget and resources to manage ESI. With thoughtful preparation and the usage of a qualified IT or ediscovery professional, small and solo law firms can use the FRCP amendments on ediscovery to substantially augment the quality and quantity of discovery when opposing larger firms. The key to triumph is to not to shy away from these new rules or from contemporary ESI technologies. On the contrary, small and solo firms should embrace the new reality and prevail *with* it.

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## MacNotes

### On Becoming an Appophile

By Jeffrey Allen

Apple's iPhone has already established itself as one of the most significant and important inventions in the first decade of the 21st century (to say nothing of the new millennium). Although the iPhone works quite nicely as a telephone, a camera, a music player, and a GPS device, we have lots of other telephones, cameras, music players, and GPS devices to choose among. We also have converged devices that, like the iPhone, sport all of those features to one level or another.

We even have phones coming out with touch screens to mimic the iPhone interface.



productivity, reference, social networking, sports, travel, utilities, and weather. You will also find in the center of the page a listing of new apps, highly popular apps, and Apple's staff favorite picks of apps.

The apps in the store range from free up to at least \$40 (I have not seen any more expensive than that yet). On the right-hand side of the screen, you will find a listing of the most popular paid apps and the most popular free apps. If you don't see what you want at first, you can type a key word into the Search iTunes Store button on the top of the iTunes browser page (not shown in image above) and search the iTunes store for things related to that term. The search feature does not limit itself to apps, and it will also return music, video, and podcasts relating to the topic. For example, I will travel to Chicago next week. If I want to see what apps might benefit me while there, I type "Chicago" into the search field. I get a display showing a few of the videos, music albums, Apps, etc. relating to "Chicago."



Apple iTunes Store search as seen on my computer.

Each of the media selections allows me to choose to see all of the choices found in the search. By clicking on that option, my computer takes me to the first of several pages displaying apps that relate to my inquiry about Chicago. I can browse through those apps until I find one I want and then click on it to go to a screen telling me about the app, its features, who wrote it, whether it costs anything, and, if so, how much. It also affords me the opportunity of downloading it to my iTunes App collection for synchronizing to my iPhone and or iPod Touch.

One of the choices tells me about the iTrans CTA (Chicago Transit Authority) and its routes. If I select that app, iTunes takes me to its page and provides me with access to the information about that app, which, incidentally, costs \$1.99. It also tells me what others who have bought the app have reported about it and directs me to selections that others who purchased the app made respecting other apps available in the store. If I choose to purchase the app, I simply click the "Buy App" button, and Apple charges my iTunes account and downloads the app into my iTunes Mobile App collection for me.



Which apps you choose will reflect your needs and interests. One of the truly nice things about collecting apps is the ability to tailor the collection to your particular needs and interests. With more than 35,000 apps to choose from, you should find at least a few that you like.

I do recommend that you pick up a few of the photo apps. They can help you crop, remove noise, change lighting, and otherwise improve some of your pictures. If you like games, you should find some entertaining apps. I particularly like some of the old arcade style games, Scrabble, and some of the card games. They also have contemporary arcade games, adventure games, pinball apps, pool apps, and so forth. You will probably want at least one of the database apps that will let you store and retrieve information in convenient ways.

You can find any number of reference apps for the iPhone. I have an app that contains the California Evidence Code, another that provides the Federal Rules of Evidence, and a third that gives me the Federal Rules of Civil Procedure. I also have apps that contain the U.S. Constitution and a variety of other historic documents.

You can find several readers apps. Some let you read PDF files, and others read proprietary file formats. You can also find apps that come with a good-sized library of books for your enjoyment. Recently, Amazon decided to get into the app game, releasing a Kindle App available at the App Store at no charge. The Kindle App allows you to acquire books from the Kindle Store and download them to your iPhone/iPod Touch. If you already have a Kindle and have bought books for it from the Kindle Store, it also allows you to redownload the books to your iPhone/iPod Touch.

The iPhone and the iPod Touch each allow you access to the same number of apps: nine pages of 16 app icons, or 144 apps. Although you can synch more than 144 apps to your iPhone or iPod Touch, you will only see the first 144. Others will reside in memory, unavailable to you until they appear on the App Menu pages. A hidden app will appear only after you delete enough apps ahead of it to get it within the first 144 apps and then cycle your device off and back on again.

While 144 apps may sound like a lot to you, if it does, that means you have not yet morphed into an appophile. A true appophile will eventually acquire many more than 144. When that happens, you enter into the realm of app management. A true appophile must learn to manage apps to maximize the appophile's benefit and the utility of the collection. For example, my personal app collection numbers 341 as of today (I am sure that it will grow larger before you read this column). Of that 344, maybe 100 reside on my iPhone on a continuous basis. I sub others in and out freely depending on my planned activities or needs. For example, if I am traveling, I may switch out a dozen or so apps. I have a number of apps that I will always take when I travel (such as those that tell me about airport delays, Zagat, and a couple of other restaurant-rating apps, and a taxi locator app). I also have a number of destination-specific apps that will change

when I travel to various locations. These apps contain information about local transit routes and schedules, local sites to see, and other travel information about the area. If I travel out of the country, I will also take a phrase translator along in case I need to communicate in more languages than I can on my own. The more you travel, the more destination-specific travel apps you will likely want to download.

I do have one issue with app management for which I have not yet found a satisfactory solution. I would like to keep my apps organized by categories or groups so that I know about where to look for any particular app. The current operating system lets you move apps around on a page and even from page to page, but you have no control over the full consequences of a move. For example, if I move an app from one page to another page that already has 16, the OS will kick one of the 16 apps off of the page and move it to another page. I have no ability to control which app gets relocated or the page to which it moves. Apple has announced the impending release of a new operating system for the iPhone and iPod Touch. The new system should come out in June. We can only hope that it corrects this design oversight.

The true appophile will pay attention to memory usage. Apps take up memory. Some apps take up more memory than others as they accumulate information and grow. The Kindle App, for example, will store your downloads as part of the app. Accordingly, as you download more books the app grows in size. You will need to pay attention to the memory allocation when you synch your device. I have already had to remove some of my music to allow for the storage of other things (not just apps: I actually removed a few gigabytes of music when I wanted to add a movie to the iPhone for travel. Although Apple has not yet announced new hardware in the iPhone/iPod touch category, you can count on the fact that Apple will have new models for us in the not too distant future. I would happily bet on the proposition that new models will have significantly expanded memory capacities to accommodate music, photographs, videos, and, of course, apps and their related data.

Jeffrey Allen is the principal in the law firm of Graves & Allen with a general practice that, since 1973, has emphasized negotiation, structuring, and documentation of real estate acquisitions, loans and other business transactions, receiverships, related litigation, and bankruptcy. Graves & Allen is a small firm in Oakland, California. Mr. Allen also works extensively as an arbitrator and a mediator. He serves as the editor of the *Technology eReport* and the Technology & Practice Guide issues of *GP Solo Magazine*. He regularly presents at substantive law and technology-oriented programs for attorneys and writes for several legal trade magazines. In addition to being licensed as an attorney in California, Jeffrey has been admitted as a Solicitor of the Supreme Court of England and Wales. He holds faculty positions at California State University of the East Bay and the University of Phoenix. You can contact Jeffrey via email at [jallenlawtek@aol.com](mailto:jallenlawtek@aol.com). You can follow his technology blog at [www.jallenlawtekblog.com](http://www.jallenlawtekblog.com).

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## SurvivingEmail

### Seven Reasons Why I Didn't Respond to Your Email

By jennifer j. rose

*To: <undisclosed recipients>*

*From: Lawyer*

*Re: Something really important*

*Dear Friends,*

*Attached is a Really Important Proposal. Please read it over, and let me know your thoughts.*

The sender was perplexed that the response rate to his email was absolutely zero.



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What went wrong? Concealing the names of the recipients is fine (and in fact, recommended) for sending out jokes and announcements, but it's definitely not the way to elicit thoughtful responses. The number of recipients could be counted on one hand, but the recipients had no way of knowing whether they were one of five or one of a hundred. The sender didn't even show the recipients the courtesy of addressing each by name. Why would anyone feel motivated to respond to an email like this? The sender didn't want the recipients to know who else would be receiving the message. How difficult would it have been for him to send separate messages to each individual, instead of a single mass-mailing to <undisclosed recipients>?

*TO: jennifer, Bob, Ted, Carol, Alice, and 25 other named recipients*  
*FROM: Lawyer*  
*Re: A question*

You're asking 30 people for an answer? What are you doing, taking a vote? If you're asking 29 other people for an answer, what's the rush for me to respond? Why should I respond at all? Let the other 29 recipients respond.

*TO: Jeff, Yolanda*  
*FROM: Lawyer*  
*RE: Scheduling*  
*CC: jennifer*

Once again, the sender couldn't understand why jennifer hadn't replied. Was the message trapped in her spam filter or lost in space? Was she intentionally ignoring the sender? Was she just having another hissy fit?

None of the above! She received the email, all right, but why should she waste her time responding to email that was not even addressed to her? If the sender wanted her reply, then he should've directed the email to her along with the other named recipients, instead of just copying her in.

*TO: jennifer*  
*FROM: Lawyer@aol.com*  
*RE: Blah Blah Blah*

*Please respond to me at [Lawyer@SomeOtherAddress.com](mailto:Lawyer@SomeOtherAddress.com), because I never check my AOL address.*

You didn't have the courtesy to send this email from the very address to which you'd like me to direct my response? Are you some incapable of sending the email from that very address instead of the one you never check? Why should I do your work for you? Are you lazy or just plain stupid?

*TO: jennifer*  
*FROM: Lawyer*

*RE: Fwd: Nothing in Particular*

You've forwarded a joke to me. You've thanked me for a response. You're telling me that the sun is shining, and the birds are singing. There is absolutely nothing in your message that demands a response, so why should I send one? Do you really need the reassuring touch from me that your joke was funny, that I'm thanking you for thanking me, or that I really care about your weather report?

*TO: jennifer*

*FROM: Lawyer*

*RE: Why Haven't You Responded?*

Let's see. Sure, 36 hours have now elapsed since you sent me that email on Saturday night. Sure, it deserved a response, but there was absolutely nothing that compelled a response within minutes of the time you hit "send." You wouldn't expect me to answer the phone at 9 p.m. on Saturday night, nor would you dream of getting a response to an old-fashioned snail mail letter within minutes of the time you placed it in the hands of the U.S. Postal Service, so why should email be any different?

*TO: Lawyer*

*FROM: jennifer*

*RE: My Response to Your E-mail*

\*\*\* ATTENTION\*\*\*

Your email is being returned to you because there was a problem with its delivery. Your mailbox is full. You're asking me to play the challenge-response game for the privilege of responding to email that you sent to me? Your spam blocker is rejecting me.

jennifer j. rose receives her email at [jjrose@jjrose.com](mailto:jjrose@jjrose.com) in Morelia, Michoacán, Mexico.

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## SitesForSoreEyes

### Online Manners Matter!

By Jim Calloway and Courtney Kennaday

The inspiration for this month's column came in the form of a YouTube video sent to us by a colleague, entitled "[Facebook Manners and You](#)." Whether or not you remember those scratchy, dated, black-and-white educational films from school, you'll appreciate this humorous 4 minute and 13 second video. Like all good humor, it has the ring of truth—your behavior on the Internet matters.

We both grew up in places and times where a premium was placed on having good manners. When email and electronic mailing lists came along, it seemed like communications got shorter and less formal, and some of us forgot our manners. New verbs were invented, such as "flaming" (a nasty or angry retort in

an email reply) and “spamming” (sending unsolicited broadcast emails). If we used all capital letters in a message we were “shouting.” A code of conduct for email interactions quickly evolved, and “netiquette”—etiquette for the Internet—was created.

Now text messaging and interacting in online social networks have caught on among attorneys and other professionals. As we substitute electronic socializing for face-to-face communication, opportunities abound that we will inadvertently offend someone, or worse. Something happens when we’re alone with our words and a keyboard—we let our guard down more. Many of us are far more relaxed online than we are in person. *Stop!* Anything you do on the Internet or when texting with your cell phone can and will be held against you!

In fact, the media is full of cautionary tales of individuals damaging their careers or personal lives through careless or thoughtless electronic communications. There’s the infamous “[Cisco Fatty](#)” story (job interviewee blows it with Twitter post), and the Philadelphia Eagles employee fired for a [Facebook post](#), to name just a couple. We think by observing some social niceties, it’s possible you won’t end up as an online casualty—to that end, this week we focus on sites for good online manners.

In our search about manners on the Internet, we headed to [Netlingo.com](#). Netlingo lets us search for Web-specific terms and definitions or browse by category. More than a dictionary, our search for “netiquette” brought up both the definition and eighteen netiquette rules. Number 1 on their list? “Do not spam.” That’s a good one, but our number 1 rule would be: “Don’t put anything in an email or text that you wouldn’t want on a busy highway billboard or the front page of the local newspaper.” (We recognize that everyone violates this rule from time to time.)

You can find more netiquette rules at the [Netiquette Home Page](#). The site contains the Web version of the book *Netiquette* by Virginia Shea, which has all the netiquette basics, or you can get a quick run-down of the book’s top ten “Core Rules of Netiquette.” [Smart Computing](#) also has advice on netiquette, including this [article](#) with the advice to count to ten before sending anything over the Internet. You can find more tips by doing a site search for “netiquette.”

If you’d like to read a nice essay on civility on the Internet, Salon.com has an essay, [Mind your Manners Online](#). The author argues persuasively that the future of the Internet hinges on manners.

Longing for a modern day Emily Post to help you through this manners morass? We found [NetManners.com](#), which fills Emily’s shoes quite nicely. There’s Email Etiquette 101, which explains in *detail* everything you need to know about email courtesy. It’s full of great advice, and tidbits like “Online Perception Is the Only Reality.” You can sign up for email notification, ask the site mistress “Judith” questions, check out the glossary, and read “how-to” articles.

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Is there anything specific to lawyers and netiquette? Well, many states have adopted professionalism codes, which arguably extend to lawyers' behavior on the Internet. You can find links to them by state at the [ABA Center for Professional Responsibility](#).

Sometimes being polite is just a matter of understanding the local rules and customs, both written and unwritten. Google failed us on locating unwritten rules of courts. (Are you listening Google?) But LLRX.com has a "must bookmark" [page](#) with links to more than 1,400 sources for state and federal court rules, forms, and dockets. Jim notes that the Oklahoma Supreme Court has [links to lots of local rules](#). Your state court's website probably offers something similar—look for "local court rules."

What about the new world of online social networking sites, like Facebook and [MySpace](#)? With more than 200 million members, chances are you're either on Facebook or have at least heard of it. However, you may not be familiar with [LinkedIn](#). LinkedIn has the reputation of being a more "grown-up" social network—one that professionals will feel comfortable in. In fact, we've overheard more than a few lawyers say they use LinkedIn for "work" and Facebook for "personal." So, if you like the idea of doing more online networking, but still want to keep it professional, give LinkedIn a look.

Netiquette in social network sites can differ a good bit from email. A social media consultant has put together [The Ultimate Social Media Etiquette Handbook](#). The handbook is a concise rundown of the most popular social networking sites and etiquette recommendations for each. For example, you shouldn't use a fake name as your Facebook name or consistently use your [Twitter](#) stream for nothing but self-promotion.

We hope that you take this column as a gentle reminder to watch your manners online just as you do in person. If our column has in any way offended you, we apologize, and ask that you refer to Rule 10 of the Core Rules of Netiquette: Be forgiving of other people's mistakes.

Jim Calloway is the director of the Oklahoma Bar Association Management Assistance Program. He served as chair of the ABA TECHSHOW 2005. Calloway publishes the weblog, Jim Calloway's Law Practice Tips, at <http://jimcalloway.typepad.com>, and was coauthor of the book, *Winning Alternatives to the Billable Hour*. He serves on the **GP|Solo Division Technology Board**. Courtney Kennaday is the director of the Practice Management Assistance Program of the South Carolina Bar. She advises bar members on practice management and law office technology.

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## TechNotes

### Trends in Technology

By Brett Burney

Quick, name the top two things you do on your computer . . .

I would confidently guess that many of you responded with 1) email and 2) surfing the Web. And while we all certainly create documents and run other applications on our computers, the vast majority of our computing activities today revolve around email and the Internet.

That conclusion is one of the main factors behind the runaway success of the so-called "[netbooks](#)."

All of us are familiar with the typical, traditional laptop/notebook. Many of us probably use a laptop as our primary computer because it allows us to be mobile. We can work on our laptop at the office, and then take it home in the evening to get even more work done.

The traditional laptop has a screen between 13 and 15 inches, with some blooming up to 17 inches. Traditional laptops feature comfortable, full-size keyboards, and CD/DVD drives for installing software or watching movies on DVD.

## Laptops for Everyone

Back in 2005, an elite group of computer scientists banded together for a noble purpose that became known as the [One Laptop Per Child Association, Inc.](#) The association intended to “create educational opportunities for the world’s poorest children by providing each child with a rugged, low-cost, low-power, connected laptop.”

To ensure a successful product, the team cut corners in every possible place—screen size was drastically reduced, the processor was extremely low powered, and the computer ran the free, open-source [Linux](#) operating system instead of Windows from Microsoft.

The One Laptop Per Child ([OLPC](#)) computer was dismissed by many in the United States as a “toy” and a curiosity. Hardly anyone considered the OLPC computer a serious machine.

A funny thing started happening in 2007, however. Because the expense of the OLPC was next to nothing compared to traditional laptops, the foundation used an interesting marketing initiative to gain support for their project. The “[Give One Get One](#)” initiative allowed a person to buy an OLPC computer for themselves that would also pay for one laptop to be sent to a developing nation. The initiative was a repeatable success, and other computer manufacturers started paying attention to this odd little machine.

## Teeny, Tiny Laptops

In late 2007, Taiwanese computer manufacturer [Asus](#) decided to release a unique laptop they dubbed the [Eee PC](#) (which they declare stands for “Easy to learn, Easy to work, Easy to play”). The Eee PC swiftly became a very popular novelty, mainly because the laptop’s price started at just a mere \$245.

Asus was able to offer the Eee PC at such an incredible cost savings because the memory was only 256 MB, and the hard drive was only 2 GB. Those numbers are a joke compared with today’s laptops that regularly feature 4 GBs of RAM and 500–750 GB hard drives. Why would anyone want a laptop that was so woefully

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underpowered?

The hard drive on the Eee PC was not a conventional hard drive: It was 2 GB of “[solid-state](#)” memory, similar to the memory found in USB memory keys and [SD memory cards](#) you pop into a digital camera. Traditional hard drives still have spinning platters and other moving parts that drain battery power. The solid-state drives built into the OLPC and Eee PC were faster, more efficient, and required less power than their traditional counterparts.

The Eee PC did not run Windows—that operating system cannot fit on 2 GB. The Eee PC ran a slimmed down version of the Linux operating system.

The biggest attraction of the Eee PC was that it barely weighed two pounds and was about the size of a paperback novel. At that size, the Eee PC easily fit in a purse or briefcase. Compare that to the 8–12 lb monsters that we all lug around on our shoulders every day.

As in everything else tech these days, the specs on the Eee PC started improving almost overnight. Within a few months, Asus was offering models with more memory and more hard drive storage, and people started buying them in droves. Technically minded folk started experimenting with installing Windows on the Eee PC, and it wasn’t too long before Asus started offering Windows-based models of their own.

By that time, other computer manufacturers started to take note of the growing popularity of netbooks, and the market quickly saw models spit out from [MSI](#), [HP](#), [Dell](#), [Acer](#), and [Lenovo](#) (IBM). By mid to late 2008, netbooks became popular enough that they started to take market share away from the traditional laptop market. Everyone wanted one of those cute little machines for taking notes, surfing the Web on the couch, and traveling.

By the end of 2008, Asus had sold somewhere around 5 million of their Eee PCs, and rest of the market sold another estimated 10 million. In one short year, the netbook market had become around seven percent of the world’s entire laptop market. That’s an incredible statistic.

## Do More With Less

This amazing statistic completely defies the traditional computer industry. It has always been assumed that computer consumers want more screen, more memory, more storage, and more power. Each laptop released by a computer manufacturer featured more of everything to entice more buyers. The idea of a severely underpowered computer, with barely any memory or storage, was just ludicrous. But people were buying netbooks at a record pace.

The biggest factor in the netbook popularity has to be their price. You can pick up

a netbook today with 1 GB of RAM and a solid-state hard drive with 16 GB+ of storage for around \$300–\$400. There are cell phones that are more expensive than netbooks today.

That's why most people that buy a netbook already have a laptop or desktop. As much as a netbook can do, it would be foolhardy to have a netbook as your sole, primary computer. Not because it can't do the work you need to do, but because it can quickly get uncomfortable staring at a tiny screen and typing on a scrunched-up keyboard for long periods of time.

Most people purchase a netbook as their secondary computer—the one they take to a meeting for notes; or to the couch to check fantasy football stats while watching the game; or check email on the bus.

Therein lies the genesis for the name “netbook.” Although these computers are miniature laptops, they are described by the term “netbook” because they are used primarily for surfing the Net and checking email. After all, neither of those functions require a lot of processing power, and certainly don't require a lot of storage space. Most people can check their email via some sort of Web-based interface, or they simply visit Hotmail or Gmail. And if you use Google Docs for storing your documents, and connect to Google Calendar for your online calendar, why do you need any applications installed on your computer?

A recent [survey](#) of netbook owners revealed that 91 percent of them already owned a laptop, and 87 percent of them already owned a desktop computer. The majority of netbook owners have all three computer form factors. And while that fact could be passed off as a “techie thing,” it's more fair to say that each computer serves a separate purpose. Just like you wouldn't use a Phillips-head screwdriver on a flathead screw, you may be better served taking your netbook with you to the local coffee shop instead of your larger, heavier, more expensive laptop. ( [Ross Kodner](#) goes so [far](#) as to carry both a traditional laptop and a netbook now when he travels.)

## The Downside of Itty-Bitty

As much as everyone touts the netbook revolution, there are certainly some downsides of using a netbook.

First, netbooks have no CD or DVD drives—there's just not enough room. And while that could be a deal-breaker for some folks, it's really becoming less of a problem as more software is delivered over the Web, and USB memory keys are getting more spacious all the time. I've been using a [Dell Mini 9](#) for several months now, and I've never had an overwhelming need for a CD or DVD drive. Any information that I've needed to transfer to the netbook I've been able to do through USB memory sticks.

Second, as we've already discussed, netbooks are underpowered. Netbooks are

fine for running your Internet browser and even Microsoft Office, but they won't be able to run high-end video editing applications or 3D-enabled games. I don't know too many lawyers that are playing [Call of Duty](#), but if you are, a netbook won't be your first choice as a gaming platform.

Third, many netbooks run the open source operating system Linux to keep the overall cost of the machines low. Linux is an incredible operating system: It's just that most legal professionals don't have the time to get themselves comfortable in that environment. You may pay a little more for a netbook preinstalled with Windows, but that would be money well spent if that's what you're familiar with. You will also be limited to Windows XP since Vista does not do as well on the low-end hardware. (Because of the popularity of netbooks, Microsoft is [ensuring](#) that Windows 7 will run well on the small machines.)

Lastly, the most prevalent complaint lodged against netbooks is the size of their keyboards. The spacing of the keys on a keyboard isn't something that we often consider, but you'll find that it can make a big difference when you try to place your hands on a shrunken keyboard. To make everything fit, some netbook manufacturers move the right shift key or reduce the size of the tab key—not a big deal in the overall picture, but it makes a big difference when you're typing a document. To make sure you avoid hand cramps, read the [reviews](#) of the various netbooks and make sure you stick with 10-inch netbook models (such as the [MSI Wind](#) or the [HP Mini 1000](#)).

## Netbooking Across the Universe

Even with the above list of negatives, netbooks continue to be very popular. Some people call them a fad, and predict that their popularity will start to drop off, but they have certainly become a formidable slice of the computer industry in a short time. If nothing else, they have certainly proved that there is a market for smaller, underpowered computers that people will just use to connect to the Internet. And if that's all you intend to use a netbook for, then you're on the right track.

Brett Burney

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## Amazon's Kindle 2

Reviewed by Jeffrey Allen



Picture courtesy of Amazon.com/blogkindle.com

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I enjoyed my original Kindle. Despite some design flaws, particularly the almost impossible job of holding it without triggering the page advance contact on its right side, I especially liked its standalone ability to purchase and download books from the Kindle Store without the need to sync to a computer as I had to do with my Sony eReader.

When Amazon released the Kindle 2, I immediately looked into it to see whether or not Amazon had solved the issues I had with its original offering. To my delight, Amazon fixed the worst of the Kindle's shortcomings. They changed the configuration of the navigation buttons to make it possible to hold the Kindle reader comfortably and read it without inadvertently triggering a page advance.

Amazon also added a metal plate to the back of the device. That gives it a bit more solid feel, even though the case remains primarily plastic. Amazon did increase the memory of the Kindle in its second-generation device, but it still chose not to include the ability to supplement the internal memory with a flash memory card. The Kindle comes with 2GB of onboard RAM and no ability to upgrade to more RAM. You can use approximately 1.4 GB of the onboard RAM for book storage. One of the things I particularly like about the Sony eReader in comparison is that it holds both a Memory Stick and an SD card, allowing you to store more reading material on drives and to easily add your own content to the device by plugging the flash media into your computer and moving it to the card. I can't help wishing that the Kindle had the same capability.

Like its predecessor, the Kindle 2 retained the ability to access the Kindle Store and acquire new reading material on the fly using Amazon's free (to Kindle users) WhisperNet CDMA Internet access. Amazon has advertised that its system will download a book to your computer within 60 seconds. I have found that representation completely true. When I have a solid Whispernet signal, the download works quickly and smoothly. I have downloaded several books in well under a minute. Amazon's WhisperNet network works at 3G speeds and covers you in most major metropolitan areas in the continental United States. The Kindle Store has more than 285,000 books for you to choose from. Prices of most new releases and best sellers are \$9.99.

The new Kindle boasts a 25 percent increase in battery life. I didn't get quite that much over my original Kindle, but I definitely noticed an improvement of at least 15 percent. You can prolong battery life by turning off the wireless connection

and turning it on to download magazine, paper, or other subscriptions once a day.

The new Kindle turns and refreshes pages faster than its predecessor. Amazon claims a 20 percent speed increase. The 6" diagonally measured display also shows some improvement in readability. The Kindle has no backlight, but you can get a clip on battery-powered light as an accessory, if you want to read in relatively dark environments. Generally, if the environment you find yourself in has sufficient light for you to read a book, you can read the Kindle2 without a supplemental light. If you don't want to get extra lighting, you can always have your Kindle2 read to you, as it does have the ability to convert text to speech.

The Kindle 2 has exterior dimensions of 8" x 5.3" x .36" and weighs 10.2 ounces.

The Kindle 2 does not have native PDF capabilities, but it can read converted PDF files. Although you can do your own conversions, it makes better sense in many cases to let Amazon do them for you. They charge \$.10 per pdf file. You email the file to yourself at your Kindle email address, and, when it arrives on your Kindle, the Kindle can read it just fine. I recently had about 200 pages of PDF files I wanted to move to the Kindle, so I used Acrobat to consolidate the files into a single document and emailed it to my Kindle. Ten cents and 20 minutes later, I found it on my Kindle menu. If you use the conversion feature, be careful, as I did note some irregularities in the converted document. Nothing terribly serious in the case of the documents I used, but still, not a perfect conversion.

I like the improvements. I think at \$359 it comes a bit dear, but I am still glad I have one. If you like the idea of the Kindle, but think you would prefer a larger (and heavier) version, hold off buying one. Amazon has already announced the next iteration of the Kindle, the Kindle DX, a 10.4" x 7.2" x 0.38" device with a 9.7" diagonally measured screen, storage space for up to 3,500 books, a built-in PDF reader, and a \$489 price tag. Amazon has not yet announced the release date, but has announced that it will accept preorders

Jeffrey Allen is the principal in the law firm of Graves & Allen with a general practice that, since 1973, has emphasized negotiation, structuring, and documentation of real estate acquisitions, loans and other business transactions, receiverships, related litigation, and bankruptcy. Graves & Allen is a small firm in Oakland, California. Mr. Allen also works extensively as an arbitrator and a mediator. He serves as the editor of the [Technology eReport](#) and the Technology & Practice Guide issues of *GPSOLO Magazine*. He regularly presents at substantive law and technology-oriented programs for lawyers and writes for several legal trade magazines. In addition to being licensed as an attorney in California, Jeffrey has been admitted as a Solicitor of the Supreme Court of England and Wales. He holds faculty positions at California State University of the East Bay and the University of Phoenix. You can contact Jeffrey via email at [jallenlawtek@aol.com](mailto:jallenlawtek@aol.com). Mr. Allen blogs on technology and the law at [www.jallenlawtekblog.com](http://www.jallenlawtekblog.com).

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## My Law Practice and Bento 2

By Grace L. Suarez

The most difficult thing about moving from Windows to Mac was leaving behind two programs: WordPerfect and Amicus Attorney. WordPerfect is the finest word processor ever for attorneys, and Amicus Attorney comes very close in the case management arena.

Despite much looking, I found nothing to replace either. So I decided to “roll my own” case management application. I have designed some databases over the years, though I am not a professional. I checked out Bento 1, but concluded it did not have the power I needed. I switched to FileMaker and undertook the substantial learning curve involved. I did okay, and in a couple of months designed a working database. But it was hard work.

Along came Bento 2, with its promise of integration with Apple’s AddressBook, iCal Tasks and Events, Apple Mail, and documents. I was sufficiently tempted to plunk down \$99 for the family pack (single user version is \$49).

In the course of one afternoon I was able to create a Bento database that enabled me to track my cases. The application is just that easy to use.

My case management needs are pretty simple. I have a pure solo criminal appellate practice, and I do only court-appointed cases. I don’t do conventional billing, though of course I have to track my time and expenses. My solution uses two “libraries” (Bento’s term), one that gathers together all the information about a case, and a related one for time and expenses.

The main Clients library has fields for the client’s name, the court numbers, the county of conviction, and similar items. Related records from iCal Events (for due dates), iCal Tasks (to-dos), Address Book (names and addresses of parties), email, and documents are simply dragged onto the main library. The second library, Billing, tracks time and expenses. The solution is so simple because of Bento’s integration of the existing Mac applications. I don’t have to reinvent the wheel.

Bento 2 is the little sister of Filemaker, and the developers appear to have worked very hard to make database creation, not one of the easiest things to do in computing, as easy as creating a word processing program or a spreadsheet.

If at this point you are having a hard time visualizing what a database does, I suggest you look at Bento’s website [www.filemaker.com/bento](http://www.filemaker.com/bento). The site has some

videos and explanations that will bring you up to speed quickly. You may even want to download the free trial and just start playing with it. Bento comes with a bunch of predesigned libraries that only need your information.

I use the merging capability to create form letters using the data from the Bento case management library. I export information from each client's form to Numbers, the Apple spreadsheet program (part of iWork '09), and then merge it with a Pages (the Apple word processor, also in iWork '09) document.

I also used Bento to create a personal law library. I create case summaries of recent published cases, export the records the same way, and the resulting document is sent out as an email to a list of subscribers and posted to my website [www.gracesuarez.com](http://www.gracesuarez.com). My site also has a few blogs about using Bento.

Pretty soon everything starts to look like grist for my Bento mill. I've created a daily journal with an image field for the "photo of the day," usually a shot taken through the back window of my house, a notes field, and related records from iCal Tasks, iCal Events, Address Book, documents, and email. The whole day at a glance on one page.

I have also created a library called "Stuff" where I enter information about . . . well, my stuff. In addition to fields for serial numbers, phone numbers, and so forth, I have an image field with a photo of the item, and a documents field with a link to manuals, receipts, and other material. A simple one-form library tracks odd computing tips I pick up here and there.

The Mac Address Book, iCal, and Tasks show up in Bento automatically as Libraries, and I have tweaked them by adding fields and rearranging the information. None of that additional information goes back to the original applications, but changes made to existing fields in the apps from Bento are reflected.

One of the fun parts of Bento are the themes. They are very nicely designed, and can be changed "on the fly." For example, once spring arrives, I can change the theme of my Journal, right now a sort of wintry blue, into something more cheery. The theme changer kinds of melts into the form. You have to see it. I can't describe it, but it's really cool.

There are some serious limitations that may prevent many people from implementing Bento in their businesses. The most important is that it is a single-user database. Even with the family pack, only one person can access one library. The other problem is that Bento creates one file, no matter how many libraries you create. That means it only takes one corruption, and all your data's gone. Fortunately, Bento makes it easy to create backups.

Another limitation is that if I decide down the line to move the data to another application, the information now contained in the Mac applications (Address

Book and iCal) may not port over.

Bento only works on Macs, and only with the latest operating system, Leopard. Windows users and folks clinging to Tiger are out of luck.

I took a few classes from VTC Online University to learn the ins and outs of Bento, which were quite helpful, and FileMaker has a bunch of videos on its website. Frankly, the application is so easy to use that you might just want to dive in and play with it, using the supplied templates, until you're ready to create one from scratch.

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