

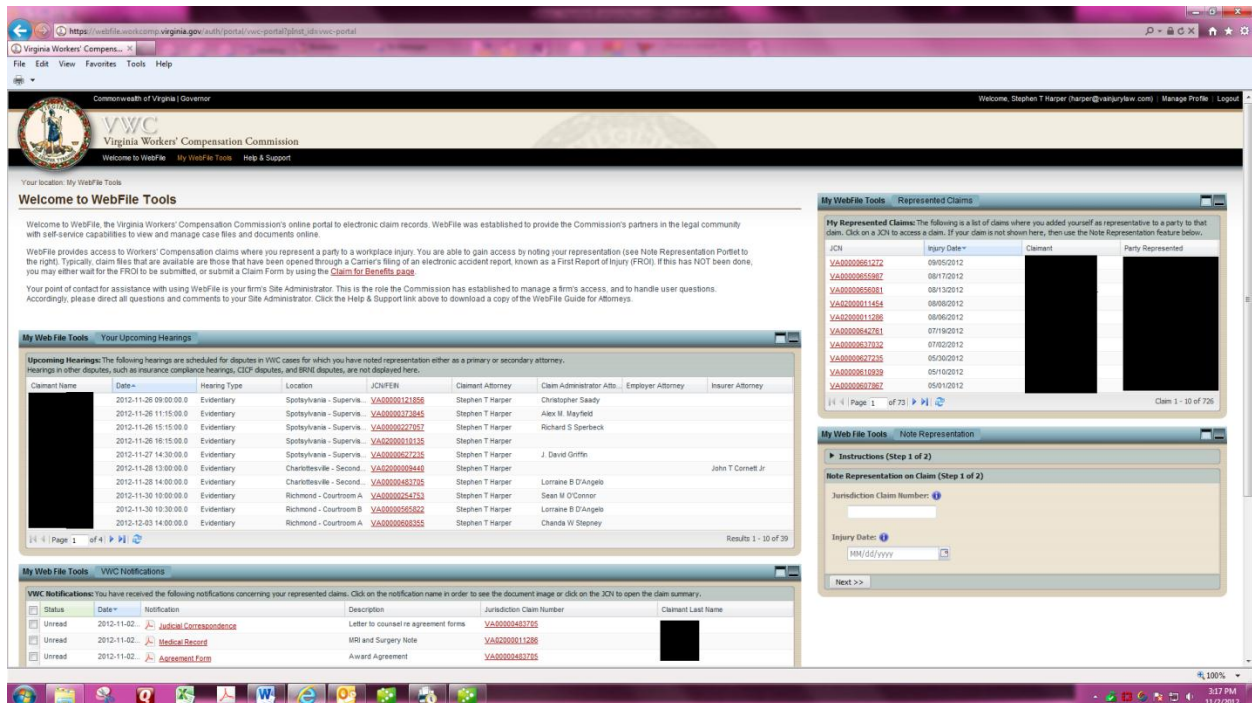
Navigating a Workers' Compensation Case in the Digital Age

November 10, 2012
VTLA 5th Annual Advanced Workers'
Compensation Retreat
Richmond, VA

By:

Stephen T. Harper, Esquire
Reinhardt & Harper, PLC
1809 Staples Mill Road, Suite 300
Richmond, Virginia 23230
Phone: 804.359.5500
Fax: 804.355.9297
Email: harper@vainjurylaw.com

As we are all aware starting July 1, 2010 the Workers' Compensation Commission officially began allowing us access to the Commission's online case management system, Webfile. The Webfile system allows us to: view and manage our cases online, track all files in which we are noted to be the attorney of record, allows us to receive correspondence from the Commission, allows us immediate access to medical records that have been filed with the Commission and allows us to keep track of scheduled hearings. It also allows us to file pleadings, motions, medical records, etc. by uploading existing documents. We can even file a new claim by using the Web forms. While many of us are getting dragged into technological age kicking and screaming, the purpose of this outline is to illustrate how our office has attempted to streamline our office practices to interact with Webfile in the easiest fashion possible.



Pictured above is the homepage to Webfile once you login. The large box on the right-hand side is a list of all the files currently listed for the attorney on Webfile. Note that

not all of these files are active. Even if you've settled a case or closed a case, unless you send a letter to the Commission withdrawing from that claim it will continue to be listed on your Webfile list forever. You can write a letter to the Commission requesting the list of files that you want removed from Webfile instead of simply doing a Motion to Withdraw on every single claim. As a general rule, our office does not withdraw from claims that have been settled. Even if we settle the case, because most settlements include meds to the date of approval, many clients will call later and say they received a bill from a medical provider that hasn't been paid. In those cases we'll need to access to Webfile again and it's helpful to still be listed as the attorney of record on a file. With old files Webfile can act as a storage facility for you, storing all of the important Orders on that file.

To find a specific file you can sort through the names one of several ways, i.e. click on "Claimant" and they will be organized alphabetically. If you have too many old file names on Webfile you can click under the far right portion on "Party Represented," scroll down to filters then go over and place the client's name in the box and it'll pull up that file for you. Then by clicking on the JCN number you get direct access to that file. Once there, click on "Documents and Filings" and you'll see every piece of paper that has been generated by or filed with the Commission on that file.

While the homepage lists all of your upcoming hearings it does not list On the Record hearings or deadlines for Statements on Review. The only way to determine those is to go into the specific file and look for the letter from the Commission with the deadlines.

If you click on the “My Webfile Tools” icon, it’ll go back the homepage and there under “Notifications” you can see every letter, Order or action that has been taken on any of your active files.

As a general rule someone in your office should be responsible for checking Webfile every single day. For anything that comes up under “Notifications,” you will also receive an e-mail notification. In my office I have several different paralegals and with the volume of Webfile notification e-mails that I get, I don’t forward them to the staff, instead I expect my staff to logon to Webfile at least twice a day, once in the morning and once in the afternoon before they leave to see if there’s any current action on their files. Part of the benefit of Webfile is that you can login to the homepage, see what your upcoming hearings are and see what actions have been taken that day on your files.

Webfiling also allows you to speed up the process of the Commission processing your filings. Instead of mailing it to the Commission, you can Webfile it. If you mail things to the Commission they are simply going to send them to their scanning department which will scan them and then upload them on to Webfile after they have been scanned. You are slowing down the process of getting your Motions, Claims for Benefits, and Petition and Orders approved when you file a paper copy because it has to go to the scanning department and that extra step causes delay.

In addition, when you file items with the Commission by paper and they’re sent to the scanning department they may be separated. Previously we filed by mail an Agreed Statement of Facts, terminating an outstanding Temporary Total Award along with an

additional Award Agreement placing the client on a Temporary Partial Award. Both documents went to different persons in the scanning department. The person who scanned the termination form scanned theirs the day it arrived and it was uploaded to Webfile. The person who had the Award Agreement was on vacation and it sat on their desk for over two weeks before it was uploaded to Webfile. Because of this procedure, you could find yourself in a situation where the time limit to withdraw your consent to the termination form has passed yet the defense counsel could withdraw their consent to your Award Agreement and suddenly your client is without a check and under no supplemental award.

Because the Commission is using this system and their system is based on things being done electronically, those of you who are still paper filing anything with the Commission are hurting your client and ultimately making your life more complicated. For example, with Petition and Orders, defense counsel can simply endorse the Order, scan and e-mail it to me, I can have my client sign the Order, scan it in and then I can Webfile the document. Because it's all electronic I speed up the process instead of waiting for the delay of mail from the defense counsel to receive the Order, have my client sign it then mail it to the Commission which then has to scan it before it ever gets to the settlement department. You eliminate to several mailings, speed up the process and get your Petition and Order before the Commission as much as a week earlier.

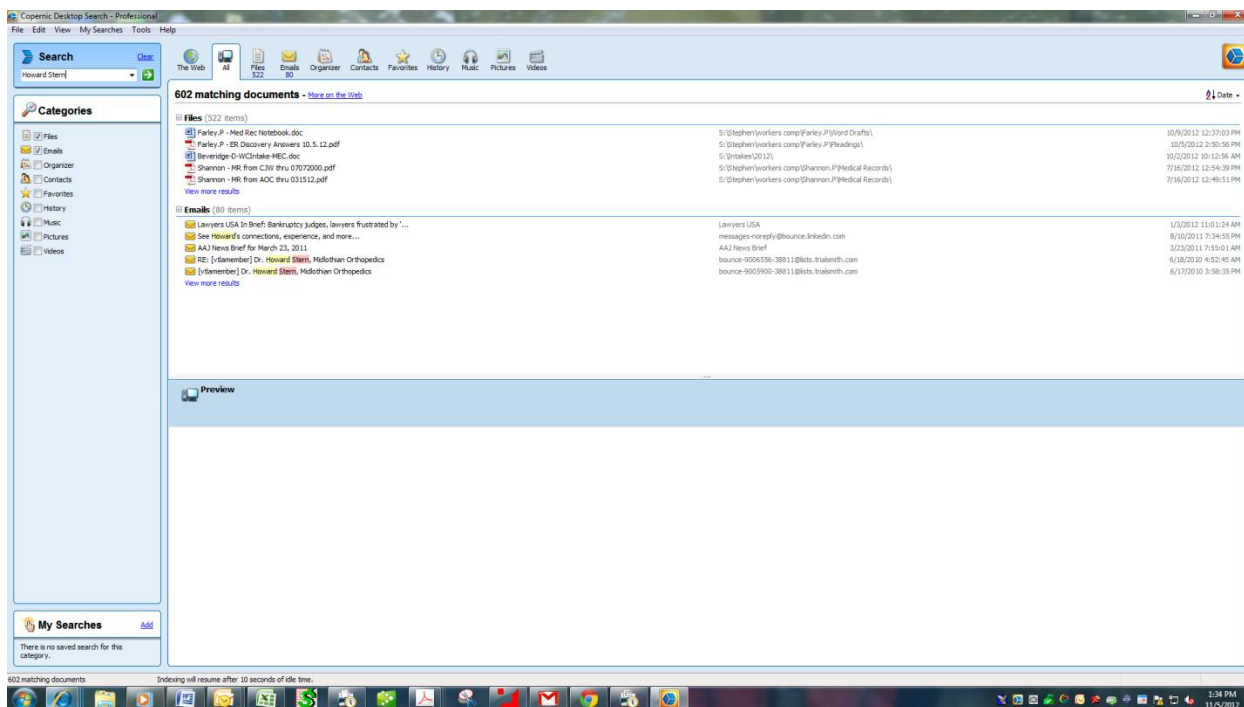
By Webfiling your medical records you're saving yourself extensive postage and copying fees. In addition, you can speed up the process of your new claims by Webfiling your new claims and Webfiling your Letters of Representation. Most clients when they come into the office don't know exactly what's going on with their case. They may think

that the workers' comp. carrier is the Workers' Comp. Commission. They may have never heard of the Workers' Comp. Commission. They may not know if they've ever received an agreement to pay benefits, they may not know if they're under an Award Order. Once you have obtained a Retainer Agreement from the client you can simply Webfile your Letter of Representation with the Commission and almost instantaneously have access to the Commission's files to see what outstanding issues there are: if a hearing is set, if there is a Position Statement due, what medical records have been filed, what Award Orders the client's under or if there's a Motion to Compel pending for Interrogatory answers. In the old days we used to simply write a letter to the Commission requesting a copy of the file, the Commission would mail it back and charge us a fee for a copy of the file. Now we don't bother doing that, everything is available online and it's free.

How to Make Yourself Paper-less

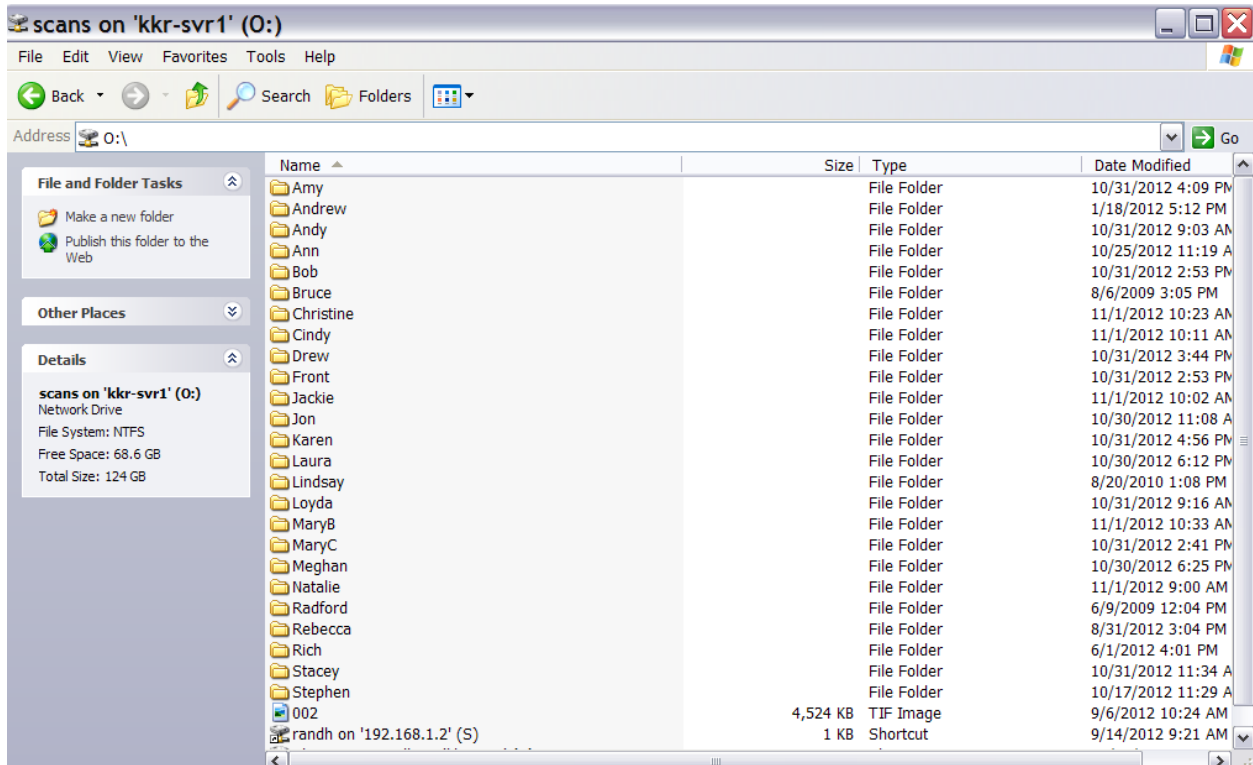
In order to take advantage of all of these things with Webfile you need to be able to scan your documents in as a .pdf so that you can Webfile them online. To gain the benefits of Webfile you will need to have a scanning system in place where you can begin to convert your office to paper-less. For example, if you're utilizing Webfile when you have a batch of three hundred pages of medical records that you need to 4.2, instead of making a copy of those and paying the postage to mail them to the Commission you can upload them through Webfile. Many defense attorneys who are utilizing paper-less offices would rather have you e-mail them your 4.2 instead of mailing them a hard copy. In those situations you save yourself two sets of copying and two sets of postage simply by scanning things in and mailing them electronically. How your office is going to undertake this scanning can vary from office to office but for our purposes I'm going to illustrate how our office does it.

Our office has two different methods of scanning. First, our large central copier also acts as a scanner which is capable of OCRing documents (meaning optical character recognition). OCRing means that when an item is scanned in as a .pdf it is not simply a photographic image but it is also a text searchable document. This allows Adobe Acrobat to search for terms that are contained within the text. All .pdfs are simply an image, they're like a digital photograph of the document, only if you OCR them can your system scan and search for terms within them. This essentially makes them searchable like a Word document would be searchable. The benefit of this is not only can you search your medical records for terms instead of flipping through pages and pages and pages for that one mention of a herniation (you simply type in "herniation" into the search box on Adobe) and hit Enter and then you can click through every single time the word "herniation" appears in those medical records. Secondly, as you systematically begin to scan every item in your office you will have a gigantic database on your server of scanned, OCR'd items that database search engines such as Copernic can search.



Therefore, if you're looking for medical records from a specific IME doctor, you can do a search for him. Or if you're looking for that example of the Petition and Order you did with the lien waiver language you could do a search for that. If you are not OCRing your documents you will still be able to .pdf, you will still be able to Webfile but you'll lose some of the benefit of scanning.

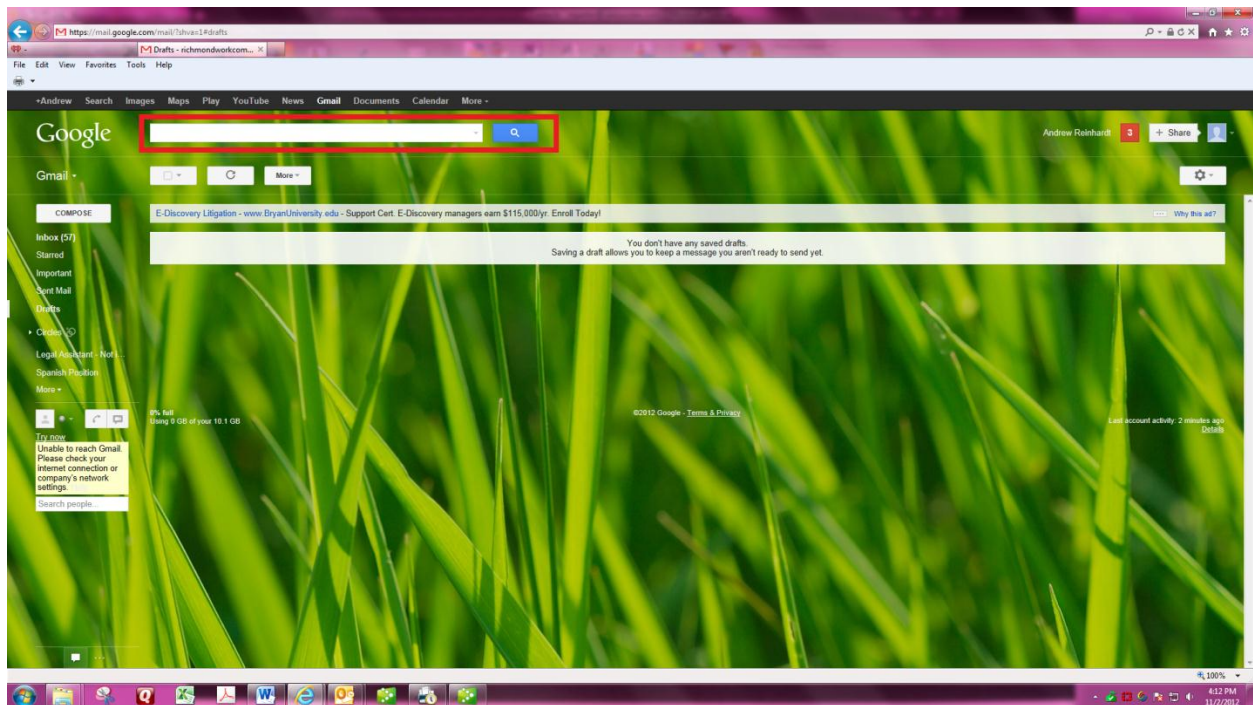
OCRing is best done if it's done at the initial stage of scanning. We have two copiers in our office, one can scan but cannot OCR and one can scan and OCR. When we scan at our large copier, we can put a destination for the scan which sends it to a specific folder on the server. Every person in the office has a folder on that server so when they scan the document it is saved to that folder. Back at your computer, you click on that folder and find your scanned document which has already been OCR'd by the time it arrives on the server.



The second way we scan things is all of my staff have a personal desktop scanner which can scan up to thirty pages at a time. This eliminates a log jam at the copier and allows them to scan things without having to leave their desk. Typically, large scanning items are done at the big copier, such as medical records and Interrogatories if there are a lot of attachments, etc.

The way our office operates is every single piece of paper that comes in or out of the office is scanned. When mail comes in, it is given to the paralegal who works on that file, and she scans it at her desk. It is OCR'd and filed onto the server and then she e-mails me a copy of that document. The attorneys do not open any physical mail, they receive all their mail as a .pdf attachment to an e-mail. The benefit of this is once the paralegal has it, they can scan it in and a copy of it is now on the server so I can't lose it. In the old days I might look at a piece of mail, set it down on my desk when the phone rings and two hours later I can't find the document. That problem never occurs now, the staff takes it, they scan it in, we have an electronic copy on the server, I have an electronic copy that's been e-mailed to me and through my e-mail search engine I can find that document whenever I want it at any point in time.

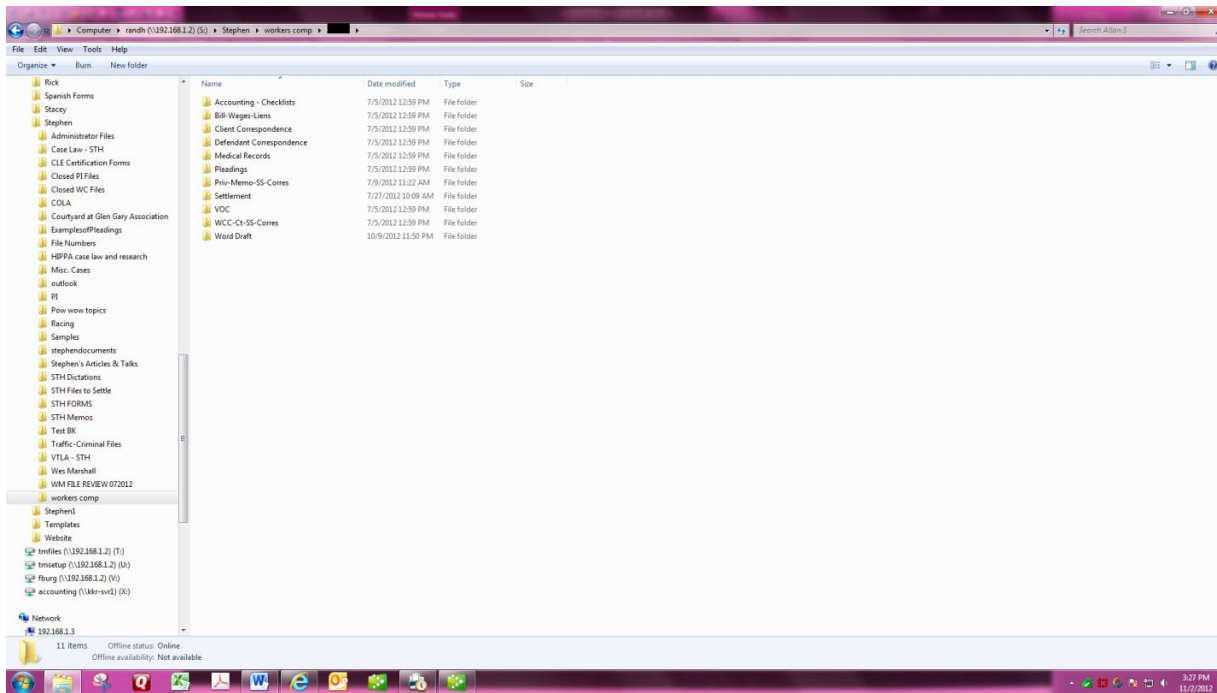
I use Gmail for my e-mail simply because Gmail has the best search engine (it is the quickest and most comprehensive). It allows me to find any document I want that's been e-mailed to me since I started using Gmail.



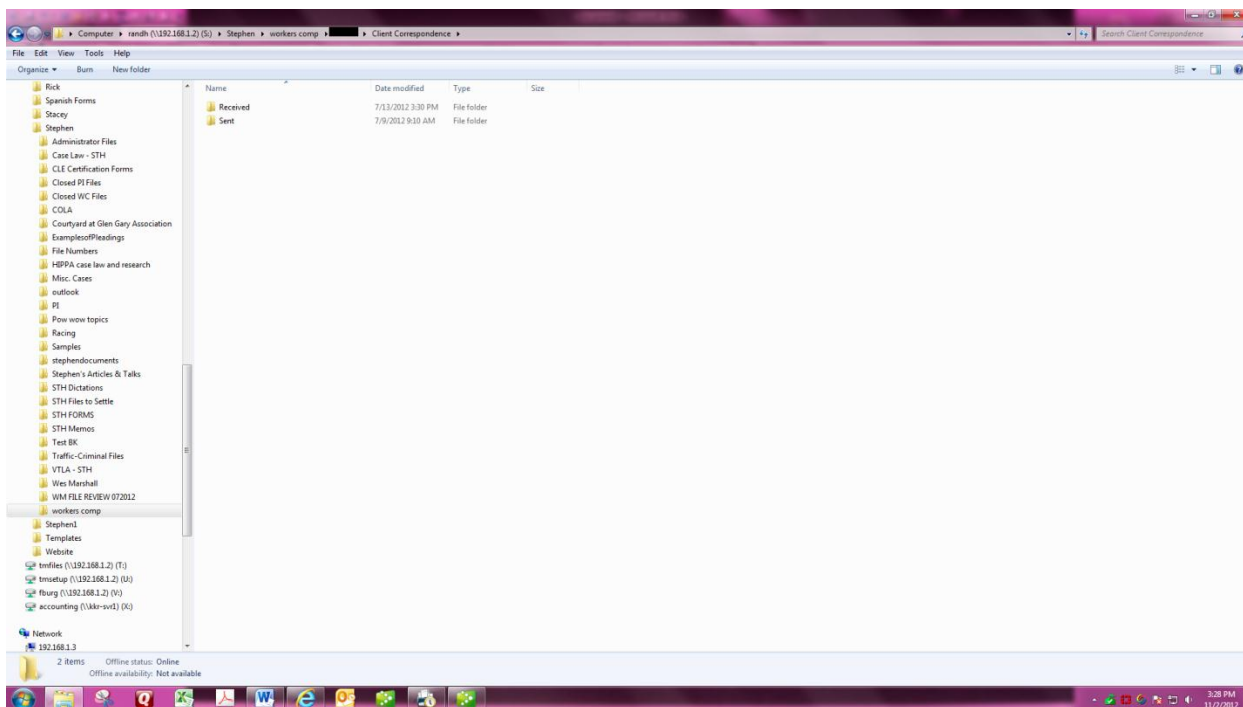
The other benefit of handling mail this way is that with modern smart phones it doesn't matter where I am, I have access to my mail. If I am out of the office waiting for a hearing I can check my mail then e-mail my staff back what I want done with that document.

When we are creating documents in our office the paralegal first types up the document in Word, then presents it to me as a hard copy for my signature. She will then scan that in and then that will be Webfiled or e-mailed to defense counsel. There's a method to this madness. There is no .pdf created of documents that we've generated until I've signed it. Even though there may be a draft on Word if there's no corresponding .pdf then I know that letter was never sent out. So while I may dictate a Demand letter and she may do a draft of it, if for some reason I decide not to send it out, when I look at that file in three months, I know it wasn't sent out because there's no .pdf copy on the server.

Anything I sign is scanned in and a .pdf is linked onto the server under the client's file. The way we organize our files electronically is on the server each client is assigned a file and within the file there are several folders,

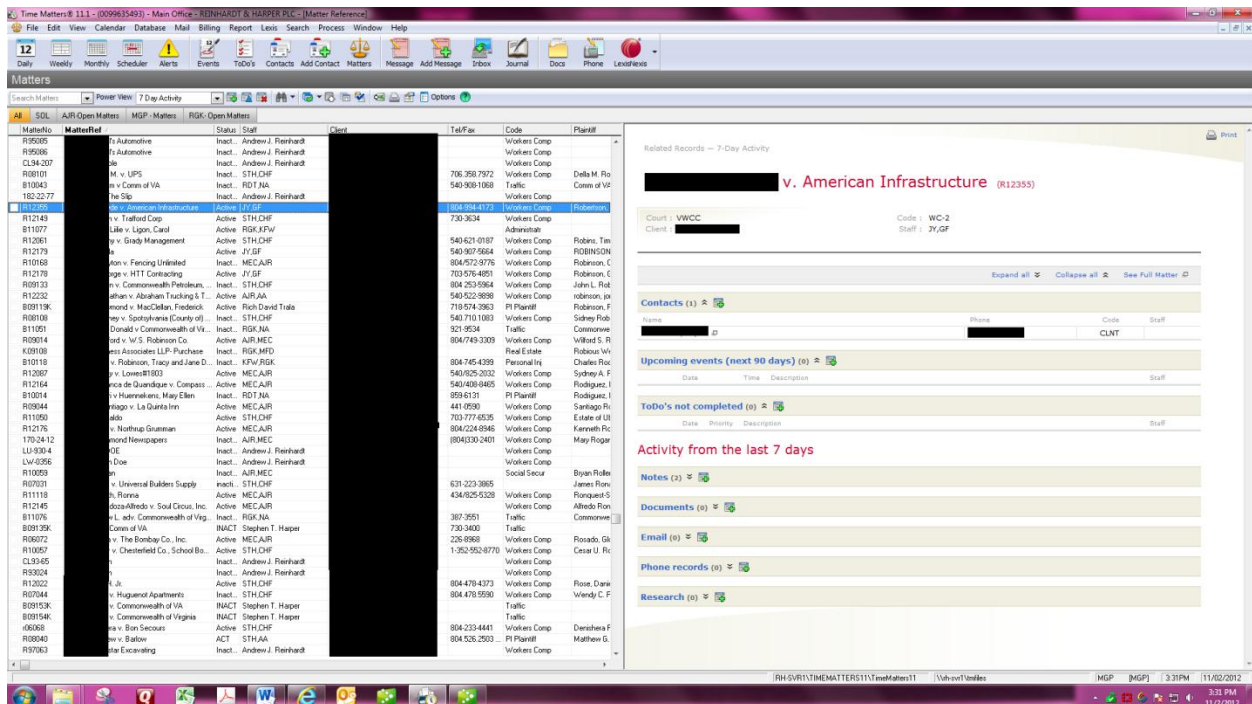


within each folder there will be a sub file list in either “Sent” or “Received”.



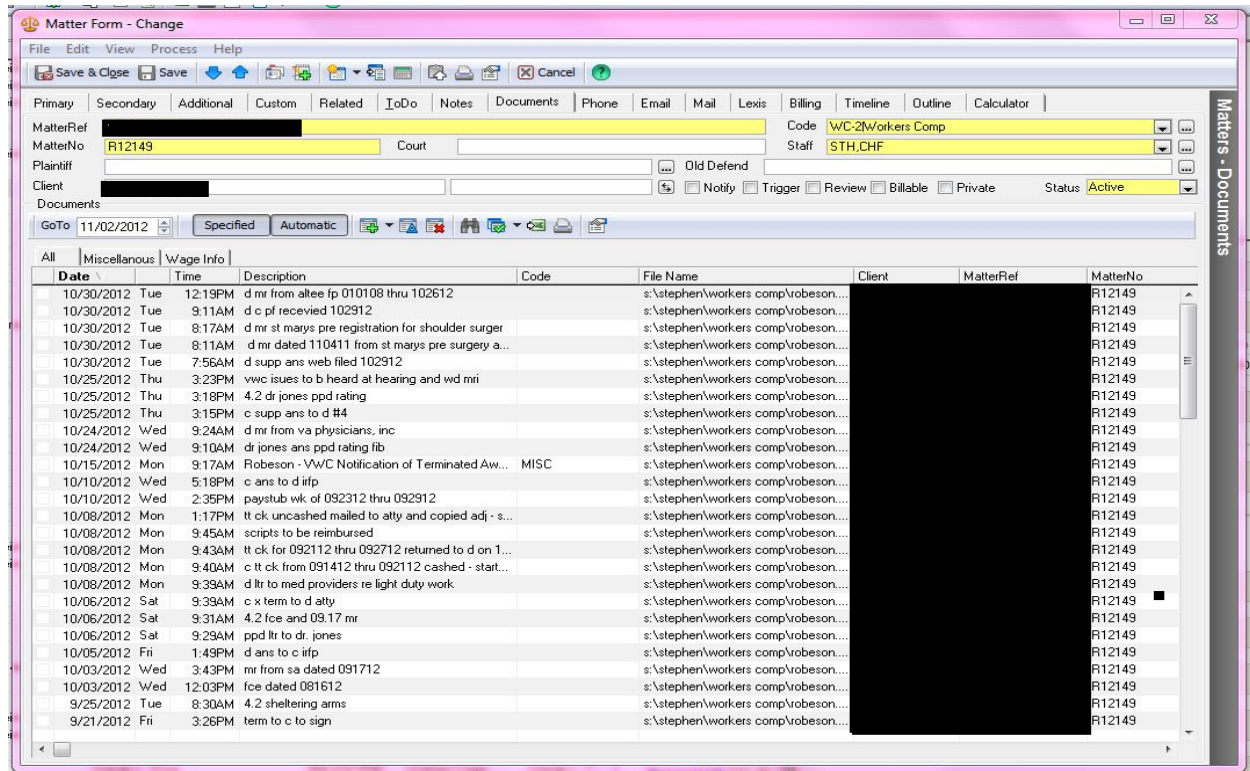
We use the same folder structure for every client. We have narrowed it down to a set number of folders because we don't want too many folders when we're searching for the items in question. Typically I can find whatever I'm looking for under one of two folders, if it's Interrogatory answers it's always under "Pleadings" or "Defendant Correspondence – Received," if it's a Order from the Commission it's always under "Pleadings" or "Commission Correspondence," etc.

The other thing our office has done to attempt to simplify this whole process is incorporating a case management system. Which case management system you use doesn't matter, all of them perform essentially the same functions, our office happens to use Time Matters. Time Matters organizes each file as a "Matter."



It lists the basic contact information but more importantly under "Related" it lists upcoming events (deposition dates, hearing dates, phone conferences, etc.). Under "Notes" it lists all the notes that I may type in or my paralegal may type in. Most importantly, under

“Documents” Adobe Acrobat and Time Matters will coordinate together. Any document that is scanned in can then be linked to that file so if I go into Joe Smith’s file and I want to see the last piece of correspondence on the file I click on “Documents” and in this case it was a medical record 4.2’d by defense counsel. I can double click on that document and open it up in Adobe Acrobat and review the medical record.



When we scan and save it on the server it’s not only saved on the server file, it’s also linked to the person’s file in the case management system so if I want to find those documents I can simply click on that person’s name. Our Time Matters system also links with our e-mail. Any e-mail that’s sent in or out, i.e. sent or received, on that file is linked to Time Matters and therefore there’s a folder of all the e-mail correspondence on that file.

Matter Form - Change

File Edit View Process Help

Save & Close Save [Icons] Cancel ?

Primary \ Secondary \ Additional \ Custom \ Related \ ToDo \ Notes \ Documents \ Phone \ Email \ Mail \ Lexis \ Billing

MatterRef [Redacted] Code WC-2Workers Comp
 MatterNo R12149 Court [Redacted] Staff STH,CHF
 Plaintiff [Redacted] Old Defend [Redacted]
 Client [Redacted] Notify Trigger Review Billable Private Status Active

View Specified Automatic [Icons] Options

All

All	Staff	Code	Client
Related Records			
Event Records (2)			
9/17/2012 1:30PM STH to call 804-517-2189 released to light duty today	STH		
10/30/2012 3:00PM STH - WC Hearing - DC Bruner - RIC 3pm	STH		
Contact Records (1)			
[Redacted]	STH,CHF	WC	
Note Records (1)			
10/10/2012 3:07PM had a long talk w client and working is really hurting him -			
Document Records (68)			
7/23/2012 4:31PM client info at intake	CHF		
7/23/2012 4:56PM ao dated 022412	CHF		
7/23/2012 4:34PM atty to do list from intake	CHF		
7/23/2012 4:36PM atty addl notes from intake	CHF		
7/23/2012 4:58PM term agrmt as of 112712	CHF		
7/23/2012 4:27PM retainer	CHF		
7/23/2012 4:39PM vwc c lor	CHF		
7/23/2012 4:50PM amended ao dated 061212	CHF		
7/23/2012 4:30PM hippa	CHF		
7/24/2012 10:18AM disability cert dated 072312 from Dr. Jones	CHF		
7/24/2012 3:02PM d ltr to vwc amending award w correct date of 031612	CHF		
7/24/2012 2:58PM froi dated 080412	CHF		

Matters - Related

Matter Form - Change

File Edit View Process Help

Save & Close Save [Icons] Cancel ?

Primary \ Secondary \ Additional \ Custom \ Related \ ToDo \ Notes \ Documents \ Phone \ Email \ Mail \ Lexis \ Billing

MatterRef [Redacted] Code WC-2Workers Comp
 MatterNo R12149 Court [Redacted] Staff STH,CHF
 Plaintiff [Redacted] Old Defend [Redacted]
 Client [Redacted] Notify Trigger Review Billable Private Status Active

GoTo 11/05/2012 Specified Automatic [Icons]

All

Date	Time	Subject	From	To	Cli
10/30/2012	Tue	9:51AM	[Redacted]	[Redacted]	All
10/29/2012	Mon	4:38PM	[Redacted]	[Redacted]	All
10/29/2012	Mon	3:53PM	[Redacted]	[Redacted]	All
10/25/2012	Thu	3:39PM	RE: dr. jones gave a 13% impairmen...	[Redacted]	All
10/23/2012	Tue	5:01PM	[Redacted]	[Redacted]	All
10/09/2012	Tue	2:50PM	[Redacted]	[Redacted]	All
10/09/2012	Tue	7:23AM	RE: family physician	[Redacted]	All
10/08/2012	Mon	1:17PM	mailed ck to defense atty and copie...	[Redacted]	All
10/08/2012	Mon	12:41PM	family physician	[Redacted]	All
10/03/2012	Wed	2:54PM	[Redacted]	[Redacted]	All
10/03/2012	Wed	12:42PM	[Redacted]	[Redacted]	All
10/03/2012	Wed	12:25PM	[Redacted]	[Redacted]	All
9/27/2012	Thu	4:59PM	[Redacted]	[Redacted]	All
9/26/2012	Wed	9:50AM	[Redacted]	[Redacted]	All
9/26/2012	Wed	9:36AM	[Redacted]	[Redacted]	All
9/03/2012	Mon	9:06AM	[Redacted]	[Redacted]	All
8/16/2012	Thu	2:43PM	[Redacted]	[Redacted]	All
8/15/2012	Wed	11:04AM	[Redacted]	[Redacted]	All
8/02/2012	Thu	9:15AM	[Redacted]	[Redacted]	All

Matters - Email

We originally started scanning documents in early 2008 in anticipation of the Commission's Webfile system. The benefit of starting four years ago is that every piece of paper that has been generated or received by this office has been scanned in since that date. Once our file is closed, (i.e. we settle a case, the Petition and Order been entered and the money has been paid) we can close the file and we simply throw whatever paper file we have in the trash. We already have a complete copy of every single document in that file on our server for storage purposes. If our client wants a copy of that we can burn them a copy to CD and give them a copy right then. If they don't, we incur no additional storage fees for keeping a hard copy of the file yet we have every single piece of paper available on that file and because they're all OCR'd and searchable if they call and say "Hey, I need a copy of Dr. Smith's office notes of June 1, 2004" we can find that in about thirty seconds.

The last thing we've incorporated to bring ourselves into the electronic age is electronic dictation. Instead of using the old Dictaphone and keeping track of tapes in our office we use our iPhones which have an application called Dictamus. We dictate into our phone and it then sends a .wav file to our paralegals who open the file through QuickTime. They have a set of traditional dictation pedals which will work with QuickTime, and simply type our dictation using that. The benefit of that is, number one, it's a digital copy, it's much clearer than tapes. You don't have the old concerns of dictating a ten minute letter then realizing that your old tape was trashed and you have to repeat yourself. Secondly, I can send a dictation anywhere I want. If I'm waiting someplace and receive a copy of my mail for the day from my staff and I want to dictate a letter in response I can dictate it, e-mail it to my staff, it'll be on my desk before I get back to the office. Lastly, because there's an electronic copy made there's a copy made on my phone of every dictation I've sent so if

I need to go back and listen to a memo I dictate to myself when I'm out of the office it's right there on my phone if I want it.

All in all these technological advances will make your life easier. Overcoming the initial cost of equipment to undertake scanning is not as significant as you may think and will pay benefits and cost savings in the long run.

Biography of Stephen T. Harper

Stephen T. Harper is a partner in the law firm of Reinhardt & Harper, P.L.C. in Richmond, Virginia. He received his BA degree from the University of North Carolina and his JD degree from the University of Richmond. Mr. Harper's practice primarily consists of representation of claimants before the Workers' Compensation Commission and personal injury litigation. He is an active member of the Virginia Trial Lawyers Association, Richmond Bar Association, Workers Injury Law & Advocacy Group (WILG) and is on the WILG Board of Directors. He is currently the Chair of Virginia Trial Lawyers Association's Workers' Compensation Section.