

MITRATECH

# 3 Processes Where Law Firms Need Workflow Automation **Now!**

What are the key legal processes where law firms should immediately adopt legal workflow automation to meet client demands and bottom-line realities?

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# Introduction: The Pressures Behind Progress

Law firms are feeling the heat to keep pace with the accelerating, technology-driven changes overtaking the legal industry. Why should automating the three processes we'll detail in this document **be among their first steps** toward digital transformation? Why should they even embrace this evolution in the first place?

First, let's review **where those pressures are coming from:** Some are being applied by clients, particularly in-house corporate legal departments, who are themselves being pressed to deliver greater efficiency and control costs while reducing risk. More of them are turning to software solutions for these challenges, and expect outside counsel to be part of the client's digital ecosystem.



Clients are driving this mandate because it provides them with more visibility into matter management and other processes involving outside firms, as well as billing and timekeeping practices. Smaller law firms in some regions are already feeling the pinch as clients increasingly factor cost into the client-counsel relationship. A new Bellwether study of U.K. firms found that:<sup>1</sup>

*71% of solicitors surveyed said that their work has been compromised by 'client demands and their consumerist behaviours' with a third saying that they experience this type of disruption on a regular basis. 58% believe that price driven clients are impacting on the ability of lawyers to uphold the integrity of the law and provide the best service to clients.*

Then there's the pressure law firms are exerting on themselves to be more competitive and profitable. Yes, the profession has a reputation for rock-ribbed traditionalism, conservatism, and regard for precedent; as Alexis de Tocqueville once wrote, these are virtues in a democracy: "When the American people are intoxicated by passion or carried away by the impetuosity of their ideas, they are checked and stopped by the almost invisible influence of their legal counselors."

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Yet many law firms are pushing forward with innovation and legal technology adoption because they realize **the intrinsic advantages these tools offer** in terms of improved performance and operational ROI. This goes beyond honoring client demands: embracing technology is, for these law firms, simply good bottom-line business.

## Finding the upside (or else)

A KPMG study revealed that 85% of enterprise decision makers believe they only have a two-year window for making serious progress in digital transformation before they suffer bottom-line distress or begin lagging their competition.<sup>2</sup> Their upside? Data-driven organizations are 23 times more likely to acquire customers, six times as likely to retain customers, and 19 times more likely to be profitable because of it.

That's why the corporate C-suite is **pressuring in-house legal departments** and other managers to become digitally savvy. And it's the kind of **pressure that flows downhill** – to a company's legal services providers.

Obviously, **automating legal workflows generates major gains** in efficiency, productivity and cost savings for a law firm. That allows them to keep pace



with this new reality, as clients are dissecting their outside counsel spend in search of greater value at lower cost. A law firm that's able to pass its efficiencies on to its clients is giving itself a competitive leg up.

The legal services the client is paying for are qualitatively improved, too. That's thanks to their seeing quicker response times, fewer errors, risk mitigation, greater client-counsel collaboration, and so on. Resulting in happier clients.

Another benefit? Legal workflow automation is **a cornerstone technology for digital transformation.** How? It's easy to implement, delivers immediate positive impacts – the kind of quick ROI that can galvanize an organization to take the next step forward in their legal tech evolution.

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Legal workflow automation is a cornerstone technology for digital transformation.

## Three processes where automation sows immediate success

The three example legal workflows we'll highlight are ones where applying a solid, SaaS-based workflow automation solution will deliver the biggest and most immediate impact for law firms. And as we've seen, that's important to their continued success in the year ahead - and beyond.

But as Forbes noted, there are some at law firms (“especially partners that have enjoyed an especially prosperous 2018”) who don't feel any urgency about embracing digital transformation.<sup>3</sup>

During the past century or two, there were buggy whip manufacturers and whale-oil lamp makers who probably felt the exact same way.



# Automating NDA Workflows

Non-Disclosure Agreements are, for better or worse, growingly prevalent in the business world. Over one-third of the U.S. workforce operates under an NDA of some kind, according to a 2017 Vanderbilt Law Review study. They're growing in scope, too, to include new extensions such as non-disparagement clauses, requiring employees to never speak ill of their employer or former employer.<sup>4</sup>

There are more than enough non-process stumbles that can create problems with an NDA, let alone piling on process-driven mistakes caused by manual, paper-intensive NDA workflows. Where do traditional NDA workflows come up short?





- The tedium of manual repetition encourages errors and oversights.
- The sheer number of NDAs in even a mid-sized company can be overwhelming to track and costly to process manually.
- They're too slow, especially if it's a sales or support opportunity where quick turnaround matters.
- There are often different, even unsanctioned templates in use across the organization (or even the same department).
- NDAs are often not created, signed, submitted or routed properly.
- There's often inadequate instruction to the submitting party on how to fill out and file the NDA.
- Employees themselves often don't know how and when to use NDAs or properly manage that process.
- Legal staff has little or no visibility or control over any in-progress workflow.
- It's difficult to track signatures and approvals.
- Poor routing means the same NDA may see simultaneous (and conflicting) review by different attorneys/gatekeepers.
- There's no insight into whether or not an existing NDA is already in place.



## NDA automation: A bevy of benefits for law firms (and clients)

NDA automation, using the features of a leading SaaS workflow automation solution, overcomes these issues for law firms:

- Using a self-service NDA workflow, online portal and standardized forms, users can request and obtain error-free NDAs without any involvement by a lawyer.
- Self-service NDAs can be custom-designed or use pre-formatted templates, forcing standardization and consistency.
- A full template repository can warehouse NDA templates to meet any contingency.
- Routing of requests to the right internal stakeholders, if needed, can be built into the NDA workflow.
- Signature authority requirements are integrated into the workflow and can leverage secure e-signature tools.
- Real-time status monitoring provides process oversight.



- Stakeholders can collaborate in approval processes and more complex self-service NDAs via online commentary/notation.
- Notifications, alerts and escalations can be dispatched to stakeholders at pre-designated points throughout the process.

**How do these capabilities translate into benefits from NDA automation?**

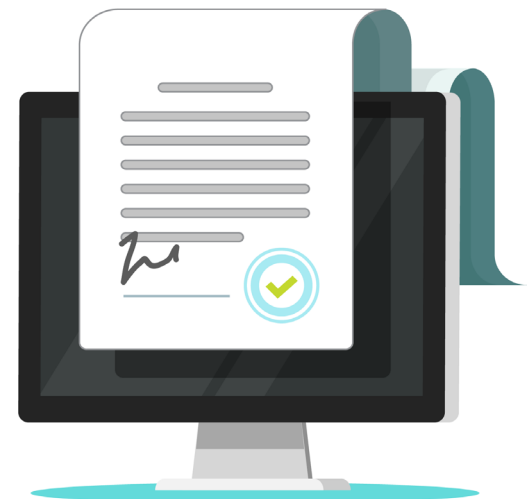
- A self-service NDA workflow can be up to **7 times faster and 15 times more efficient** than a manual process, with 100% compliance and up to 400% ROI.
- **ROI arrives nearly immediately**, thanks to the ease of adoption of best-of-breed NDA automation solutions.
- Simple standardized NDAs **can be obtained any time, any location**, without costly internal review by legal personnel, driving considerable savings.
- Via a single portal, **law firms and clients can now manage NDA processes at scale**, even across global networks.

“Today, clients want more than just great lawyering. They expect their outside counsel to invest in the tools of technology to support efficiency, quality.”

**JUSTIN HECTUS**

CIO/CISO, Keesal, Young & Logan

- Automating the process delivers **an error-free workflow and user experience** that's faster and more reliable.
- Each NDA workflow can be **automatically backed up to a secure Cloud archive**, easily accessible for audit, governance and compliance purposes.
- E-signature integration **standardizes secure approvals**.



## But the benefits go further...

For a law firm, there are other positive impacts from NDA automation. What are some of these macro benefits?

Ben Bogin, Mitratesch's Director, Solutions and Professional Services, has seen them in practice. First, automating NDA workflows helps a law firm prioritize what's really important to their clients and their own bottom line. "Automating NDAs means that firms can spend time on the legal work that really matters," he says, "and NDAs get out the door faster."

Another plus? That the right platform "can take a big chunk out of the high-volume transactional work that lawyers hate, and allow them to spend more time using their JD," he points out.

These big-picture benefits go even further, however. As law firms wrestle with decisions about which technologies are their best investments in 2019, legal workflow automation can be a cornerstone technology delivering "quick wins" that prove the value of digital transformation.

By applying legal workflow automation tools to NDA automation, law firms can enjoy one of the quickest wins possible, Ben explains. "NDAs are low-hanging fruit for any organization. It's a great first use case to see immediate ROI."

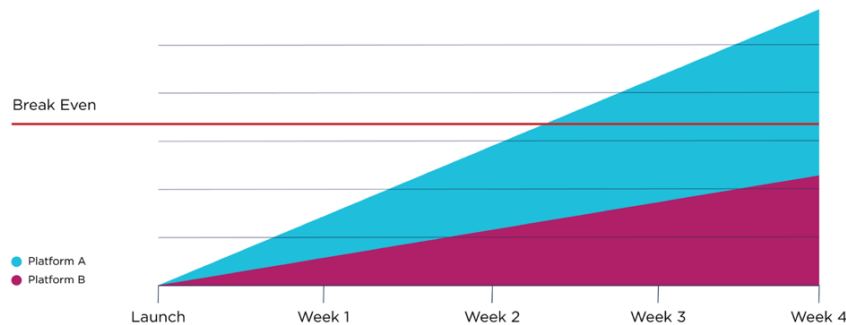
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### **BEN BOGIN**

Director, Solutions and Professional Services, Mitratesch

A law firm shouldn't assess ROI only in terms of eventual payback from a workflow automation solution but in time-to-value, or T2V. Investing in a SaaS product that provides greater ease of adoption, intuitive UX for form and workflow design and publishing, e-signature integration, smooth integration with legacy platforms, and a more complete feature set will drive faster returns.

The two hypothetical workflow automation products in the graph below deliver different T2Vs, with Platform A reaching the "payback point" much faster thanks to exactly the capabilities we've just mentioned.



Implementing NDA automation workflows is, though, only one of three essential processes where it's imperative for law firms to apply legal workflow automation in the next year in order to leverage the transformation that's inexorably underway in legal practice.

# Automating Case Management Workflows

It's become imperative for law firms to solve the issues afflicting case-related processes. Case management via workflow automation is an answer, and can lead to better client service and bottom-line benefits.

Evolving to meet the pressures on law firms demands can be intimidating to some, but the best legal workflow automation solutions can make their first foray into digital transformation comparatively painless – and profitable. Studies have shown how poor communication is among the biggest threats facing law firms, especially smaller ones. The busier the caseload, the more likely that matter reviews and regular communications (both internally and with clients) suffer for it. According to one report, 40% of complaints against law firms involve communication breakdowns.<sup>5</sup>

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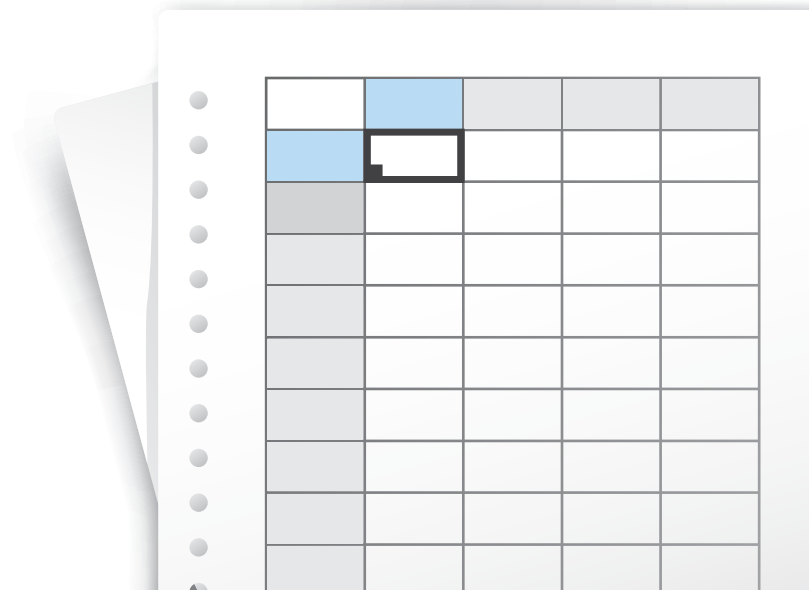
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Those breakdowns almost entirely owe to antiquated manual processes that can't cope with the job of monitoring and controlling all the varied cases and legal projects underway within a firm. Human error creeps in; the tedium of dealing with repetitious tasks dulls the attention of lawyers and staff. Negative litigation outcomes can be a result, besides getting called on the carpet by an irked client.

### Lagging behind the technology curve

Unfortunately, too many law firms are still well behind the curve when it comes to digital transformation that can remedy these issues. A Georgetown Law study found that a lack of investment in productivity tools and new business strategies has hobbled law firms:<sup>6</sup>

***An average lawyer now bills 156 fewer hours per year than eleven years ago, which costs firms \$74,100 in lost revenue each year.***





Their in-house colleagues are not, unfortunately, in a better boat. A recent Gartner report found that less than a fifth of corporate legal departments were prepared for digital initiatives, even though the same report found that:

***“The 19% of legal organisations that are digital-ready deliver three-and-a-half times fewer projects with inappropriate risk taking and two-and-a-half times fewer delayed projects.”<sup>7</sup>***

Legal workflow automation, when implemented using a SaaS solution, can empower centralized, transparent, and highly efficient case management for law firms. By standardizing repeatable processes, it removes human error from the equation, among a flock of other benefits we'll explore below.

For law firms, though, one of the most welcome benefits may be that adoption of a modern, best-of-breed SaaS legal workflow automation tool can be free of the integration headaches and learning curves they might have been dreading.

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## The benefits of workflow automation for case management?

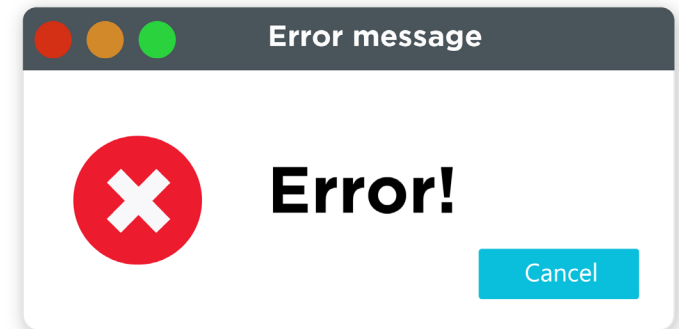
For a law firm, the payback begins with the fact that time-intensive, repetitive tasks can now be automated, and paper is banished from the process. Another benefit cluster? The ease of implementation and simplicity of use delivered by a top-rung workflow automation software solution:

- The best of these can integrate seamlessly with a law firm's legacy systems, practice management platform, and many of the other applications its staffers already rely upon.
- Simple, easy-to-use interfaces allow them to design, track and manage a case management workflow with ease.
- Form-building via intuitive interfaces lets them create basic or sophisticated forms with embedded business logic.
- Each case management workflow is customizable to the needs of a certain practice area or a specific case.



Errors, delays, and compliance risks are mitigated:

- Routing of action items to the right process participants is accurate and prompt.
- Standardization of forms and workflows minimizes errors and reduces compliance risks.
- Access to case items across the firm (or even by clients) can be regulated via a centralized roles-and-permissions-based application.
- Documents and other case assets can be digitized and centrally warehoused, so they're never lost.



Workflows can be automatically backed up to a secure Cloud archive, and easily accessible for review purposes.

- Workflow participation and collaboration are improved:
- Stakeholders are engaged in reviews and approvals only at the points they're needed, optimizing attorney and staff utilization.
- Notifications and alerts ensure prompt action by participants and stakeholders.
- eSignature integration ensures secure approvals in the proper sequence.

Analytics, reporting, and management are enhanced:

- Reporting tools permit access to reports in a variety of formats to assure transparency and proper oversight.
- Real-time visibility into case management workflows across teams, practice areas, or the entire firm allows superior governance.
- Workflows can be fine-tuned to maximize efficiency.

“Evolution of the legal industry is happening faster now than ever before. Though many will survive, only the fittest – those most capable of adapting, of embracing change – will thrive.”

**TAMARA BOX**

Managing Partner – Europe & Middle East, Reed Smith LLC

# Automating Conflict of Interest Workflows

One of the law firm processes in most urgent need of legal workflow automation? Conflict of Interest (COI) procedures that have to be precisely managed in order to avoid undue risk.

In previous posts, we laid out why non-disclosure agreement and case management workflows should be at the top of a law firm's list of processes to automate in the year ahead. What gives COI automation the same urgency?

First, let's look at how potential conflicts of interest are traditionally policed by law firms.

The COI process we're addressing is for uncovering conflicts of interest among a law firm's own legal staff. Those occur if representation of a client will be directly adverse to another client, and/or when that representation would be negatively impacted by an attorney's duty to another current client, a former client, or by any personal interest on the part of the attorney.

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How does a law firm try to prevent this? When contacted by a prospective new client, the firm asks for information about the opposing party in that legal matter. Ordinarily, that consists of a name and address, which the firm uses to complete a COI check. A staffer searches files and databases to make sure the opposing part hasn't been consulted or represented by the firm in regard to that case, or for a similar legal matter.

## The (people) problem

Human due diligence isn't enough to guarantee 100% thoroughness in this process. To start with, manually distributing COI policies via email or online documents is scattershot and unreliable, with large amounts of time spent pursuing people to fill out their COI forms.

If the law firm has an extensive roster of clients and a sizable number of past and present cases, it's even more difficult to spy out staff conflicts, and the records for many of them may be paper-based. Even if those records are digitized, they may be stored in disparate databases or multiple locations.

It's inevitable that oversights take place when a COI check is being conducted manually. Particularly since the repetitive and unrelenting drudgery of chasing down COI declarations and searching through a raft of records causes mistakes.

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What makes this traditional approach even more untenable is **the need for many law firms to serve clients on a global footing**. Conflicts pose a serious issue for law firms operating in different jurisdictions, where different codes of conduct may apply. Those global firms may have enormous amounts of documentation to review, and it can stress legal staffs to the limit. In some cases, the firm may not have a clear or cohesive policy for managing potential conflicts for local or cross-border matters.

This, and the other pressures being presented by an increasingly complex and steadily evolving legal landscape, complicate an already difficult process. All told, hands-on approaches to COI checking increase costs and the potential for breaching conflict rules, with consequences ranging from regulatory discipline to disqualification, damages being sought by the client, and a black eye to a firm's reputation and standing.

It's a risk-laden situation, exacerbated by the fact there are law firms specializing in taking action against other attorneys over alleged conflicts.



## Some recent examples?

Conflicts of interest take all shapes and sizes, and can be caused by inadvisable decisions or pure oversight on the part of the law firm involved.

Two recent examples at very different ends of the scale?

- **Kattan Muchin Rosenman**, a Chicago-based firm with over 600 lawyers in 14 offices across the U.S., London, and Shanghai, was disqualified from representing Mylan Pharmaceuticals in three litigations against Valeant Pharmaceuticals International due to the fact it already represented Bausch & Lomb, a subsidiary of Valeant.<sup>8</sup>
- **Matthew V. Daley** of The Nice Law Firm in Terre Haute, Indiana got a public reprimand from the Indiana Supreme Court; Daley had been appointed the public defender for two burglary suspects, but agreed to privately represent the second (without bothering to read the charges) and got a \$1,450.00 retainer, and moved to file paperwork on that (paying!) client's behalf. This was an obvious COI in terms of the level of service he was undertaking on behalf of each client.<sup>9</sup>



## What's involved in automating your conflict of Interest process?

Workflow automation of the COI process using a SaaS platform or solution can provide efficiencies and benefits that can bootstrap not just the process, but your entire ethics and compliance program. The secret is to adopt a legal workflow automation tool that has all the necessary features and flexibility it takes to address your distinct demands.

Here are just two example approaches to the COI process that only a good workflow automation solution make feasible:

### Approach A:

An online portal contains COI “smart” forms, and staffers are sent notifications to complete these, typically on a yearly basis. These forms are designed by the law firm to their own exact requirements, as can the entire workflow.

Once a form is filled out and submitted, it can be escalated appropriated (if necessary) to receive approvals or have issues addressed. Each person's responses are archived, providing the firm with a defensible audit trail.

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To ensure compliance, automated reminders are sent to staff so they'll complete these forms, and managers can easily view who is or isn't responding. Any identified conflicts can be carried over year-to-year, as staffers can simply update their profile each annum.

All this information can be stored centrally, so all parties can access a reliable resource, instead of hunting down spreadsheets and emails. If the workflow is integrated with a content management system, the firm's past records can be analyzed to identify any potential conflicts.

### **Approach B:**

Online forms or a portal are used by law firm staffers only when a conflict is known to exist, as they need to ask for approval to move forward. As with the previous example, all requests, individual workflows, etc., are centrally stored and visible to management.



The benefits of COI workflow automation?

- Immediate, audit-ready reporting means a law firm can run ad hoc reports to identify who's providing COI information, and what conflicts exist. That shows their COI process to be defensible and able to meet client or judicial scrutiny.
- Expanded capabilities through integration, as a COI workflow can be connected to existing platforms and systems.
- Verifiable and secure approvals, if the workflow automation software includes e-signature tools.
- Improved monitoring and management via centralized dashboards, providing visibility into every stage of a workflow.
- Significant time and cost savings over manual processes, by automating repetitive tasks for immediate ROI impact.
- Accelerated efficiency and responsiveness, as the COI process is streamlined and expedited, allowing a law firm to deliver better service and value to its clients.

“...the evil [of a conflicted representation] . . . is in what the advocate finds himself compelled to refrain from doing,”

**U.S. SUPREME COURT**

Holloway vs. Arkansas

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# About Mitratesch

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