

## Copy, Paste, Repeat ... No More

Copy-and-paste reigns supreme in generating legal documents. This fact may be viewed as a sad commentary on the unoriginal nature of most legal practice. Alternatively, reusing portions of an already completed work product may be regarded as a necessary bit of efficiency in a precedent-driven profession. To me, copy-and-paste — as commonly practiced by lawyers — is a classic kludge and a poor substitute for proper templates, document automation and knowledge management.

A kludge is a crude workaround, an assortment of poorly matching parts that form a sub-optimal but serviceable whole. A kludge is often the outcome of jury-rigging — in the nautical, rather than the courtroom, sense — a semi-functional contrivance made from materials that happen to be on hand. The limited and arbitrary nature of material that happens to be on hand for most lawyers, especially junior ones, is what makes their copy-and-paste kludgery so problematic.

In the abstract, reusing work is economical. No need to reinvent the wheel. In the hands of an expert, prior art is a valuable resource that facilitates focus on the unique challenges of a particular matter (i.e., the vital 1 percent that distinguishes it from previous, similar matters). But, too often, that means basing new work on a single document (e.g., an analogous contract or a similar motion filed in the same court). This seminal document is itself a slightly altered clone of a previous reproduction of a prior facsimile of an earlier derivation and so on. Generally, the whereabouts and provenance of the original text is shrouded in a mystery that no one cares to solve.

Even in the hands of a skilled attorney, repeated reiteration of a particular document can result in the proliferation of artifacts, errors and omissions, as the vestiges of past mistakes and context-specific decisions are carried forward. Over time, the material degrades when it should be refined. Moreover, junior attorneys do not have their own repository to mine. Instead, they rely on a document bequeathed by the assigning partner, a friendly senior associate or a primitive search of their firm's workshare system. The novice lacks the frame of reference to determine whether their exemplar text is any good. They are also anchored to the existing material and will likely retain much that does not belong.

At the most basic level, I'm talking about templates. For example, there is no reason someone

needs to format every submission to meet the idiosyncratic requirements of local rules (e.g., one-inch left margin, half-inch right margin, double-spaced lines numbered consecutively). It is better to use the last submission in that court as a foundation. But it is better still to use a clean template. Relying on a previous submission in the same court assumes that the submission was formatted correctly. Even if the previous submission was perfect, it is all too easy to forget to change a caption, a case number, a hearing date or a footer. Firms and departments should have a process for providing their lawyers with clean, properly formatted templates.

A basic template has blanks to be filled in. An automated template populates these fields based on answers to a questionnaire. In the litigation context, this means case number, court and document title. In the transaction context, the fields can include basic information, such as parties, dollar amounts and deadlines. But document automation can go far beyond the basics. Modern document-automation software can generate extremely complex documents based on dynamic questionnaires that are only limited by our ability to anticipate permutations.

Advanced document automation is the professional version of copy-and-paste, repurposing prior work for future use in a deliberate, methodical fashion. Yet, it is worth asking whether the source material is itself the end result of a structured, studied effort to disseminate best practices or just more kludgery that uses whatever happens to be available. Such questions are one small piece of our industry's continued struggle with knowledge management.

In a precedent-driven profession that benefits from standardization, work is — and will continue to be — repurposed. Therefore, it is worth reviewing our departments' and outside counsels' approach to repeated reuse to ensure that we are following a productive process of iteration, rather than letting urgency dictate an error-prone "ad hocism." Clean templates should be available for simple, common tasks. Automation should be deployed to generate basic variations of standard documents. Knowledge management practices should be developed and observed to ensure that we are capturing the full value of our prior work. In short, we don't need to jettison copy-and-paste; we simply need to get better at it. **ACC**



**D. Casey Flaherty**  
CORPORATE COUNSEL FOR  
KIA MOTORS AMERICA

[cflaherty@kiausa.com](mailto:cflaherty@kiausa.com)