



## Case Study: Foreclosure

It was a simple mistake. While 171 of the variables in the document were picture perfect, one was not. The auction location mistakenly still listed the site of the *previous* foreclosure auction, a county seat almost 300 miles away, as the sale site.

How one firm turned a catastrophic documentation error into gold.



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## Circumstances and Catastrophes

It was a simple mistake. While 171 of the variables in the document were picture perfect, one was not. The auction location mistakenly still listed the site of the previous foreclosure auction, a county seat almost 300 miles to the east. The paralegal missed it, as did the reviewing attorney, the client bank, the sheriff, the clerk, everyone. As Joseph Kelemen of Western New York Law Center once commented in a different situation, *“No one ever reads this stuff. Until they do. Then things get interesting.”* In this case, things got very “interesting,” to the tune of delays of several months in a real estate market that was falling off a cliff.

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The law firm offered to eat the loss to protect its relationship with its client bank. To explore ways to prevent documentation errors and improve future performance, the firm called on us to make suggestions on eliminating errors and, if possible, smooth its processes for documenting foreclosures for its three client banks.

## The background

In this firm’s jurisdiction, the statutory process for a foreclosure and sale calls for three documents, each highly detailed with substantial math, complex dates, and multiple parties and roles, each personalized to the property and time sensitive. The firm’s historic process called for a paralegal to gather information from the client bank, build a paper file, and at the appropriate times create each document in order. The forms used were generally the most recent documents, created by manually replacing the old variables with new information. After the paralegal created the document, the responsible attorney would review each. Because so many of the 170 variables have to be created or computed from scratch, the attorney needed to duplicate much of the entry work to be certain the entries were correct. For instance, the Sale Date is computed as “the Friday following the first Tuesday of a month at least 90 days but no more than 120 days from the mailing date of the Notice of Sale.” The intervening months are named, and the loan payments associated with each are tabulated. Just determining that date, which drives six other variables in the Notice, typically required reference to a calendar, use of an adding machine, and counting on one’s fingers by both the paralegal and later by the attorney. Dozens of other variables were just as troublesome.

After review, with the too frequently required corrections, and a signature, the paralegal added a mailing certification and sent it off to the appropriate mailing list.

The team could reasonably plan to process up to 2.5 to 3 cases per day.

<i>Average time invested for standard residential foreclosures</i>		
	Paralegal Hours	Reviewing Attorney Hours
Data collection	2.0	0.0
Create Document #1	2.0	1.0
Create Document #2	3.0	2.0
Create Document #3	<u>6.0</u>	<u>4.0</u>
Total	13.0	7.0

The firm had negotiated a fixed-price strategy of \$2500 per case for each of its three bank clients. The case load averaged almost 30 per month but varied with the real estate economy and the banking environment. Since the banks' referrals were cyclical within each month and were roughly synchronous between banks, managing the workload and related stress was difficult. An extra paralegal was drafted to help with the recurring overflows but speed, accuracy, and other work suffered.

## Catalyst for Change

A review of 100 uses of the largest document used in the foreclosure process, the *Notice of Trustee's Sale*, showed that 60% had errors. A little more than 20% of the documents suffered from significant and potentially material errors. These numbers coincide with a study by the National Institutes of Health of documentation errors. The study reported doctors' use of cut and paste represents a "high risk" to patients in 24% of the cases studied. We're not aware of a similar study in legal services.

## The Firm's First Goal: Eliminate Errors

The firm's initial goal was simple and imperative: Reduce risks caused by errors, whatever the costs in greater expense or lost productivity.

Over a series of four meetings a set of coherent goals was developed: Reduce risks effectively to zero by organizing data input, automating document assembly, and simplifying proofing.

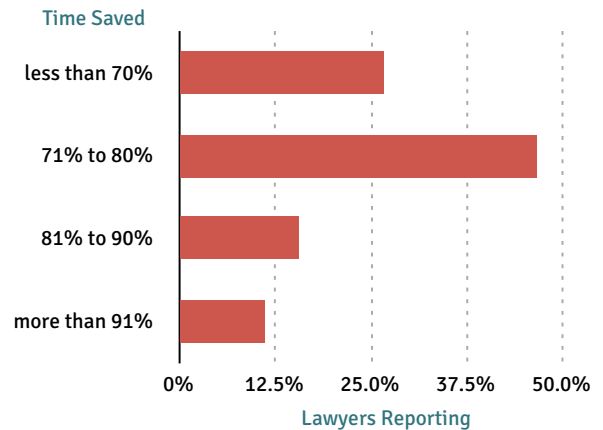
We suggested that by implementing document assembly to accomplish its goal, the firm would also:

- dramatically reduce the time invested by both the paralegal and attorney, *and*
- significantly increase productivity and decrease direct costs, *and*
- allow the firm to reduce prices if it chose, while maintaining or increasing earnings.

These concurrent changes could be used to aggressively attract additional clients, increase market share, decrease volatility and increase earnings, or the firm could use the freed-up time to redeploy the paralegal and attorney into other services.

We explained our expectation that the firm would experience at least a 3X increase in productivity, near the low end of the average improvement reported by our customers, and that it might go as high as 10X greater, a result reported by 15% of our firms.

We recommended the firm select Doxserá as its quality and productivity tool for its foreclosure section, three licenses. In return for allowing us to share the results of the changes, we gave them assistance creating the three forms and training its personnel. With two hours of training for both paralegals and one hour for the attorney, they were more than ready to go.



## How it worked out

After 90 days, the results were fairly typical for our users.

<i>Average time invested for standard residential foreclosures using Doxserá</i>		
	Paralegal Hours	Reviewing Attorney Hours
Data collection	2.00	0.00
Create Document #1	0.50	0.25
Create Document #2	0.50	0.25
Create Document #3	<u>0.75</u>	<u>0.50</u>
Total	3.75	1.00

Paralegal time invested in the three documents dropped 9.25 hours, 71%, for the three documents, while attorney time shrank 6.0 hours, or 86%. Most importantly, documentation errors disappeared.

The firm adopted our suggestion that it “share” its productivity dividend with its customers as a marketing tool by reducing the fixed fee from \$2500 to \$1800, solidifying its relationships with the very advantageous price point for the banks.

## The Financial Results

Assuming that the original fixed fee roughly covered the firm’s “rack rate” for the paralegals’ and attorney’s times and estimating the same rate for paralegal pricing post-change, then the attorney’s contribution increased by 550% at the \$1800 price point. Simply put, on an hourly basis the attorney is bringing in more than five times as much as earlier. Actual results have been magnified, however, as four additional banks are now clients for foreclosure and other services, drawn by very the attractive pricing, faster service, and high quality. Other firms find it difficult to compete.

The firm has increased its Doxserá usage to 11 copies in order to serve its real estate, elder law, and business practice areas in addition to foreclosures.

Turning to robust document assembly tools for repetitive tasks allows the firm to offer very impressive fixed price services to clients and eliminate errors, strengthen relationships, and increase volumes without increasing costs.

Effectively executing that strategy can result in stunning financial gains and turn a catastrophe into gold.



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