

Managing High Value Email & Document Delivery in the Legal Industry



2012 Law Firm End-User Technology Survey

Electronic Legal Notices, Encryption and E-Signatures in the Legal Industry

1: Executive Summary

After a firm deploys a new software or e-document solution, IT directors are usually confronted with the challenge to assess how it is used, and what's the impact on the bottom line and employee productivity.

This report analyzes survey data from users in law firms that have RPost technology currently installed. RPost technology provides a platform of email and document management solutions that include:

- Email Delivery Proof
- Email Encryption
- Electronic Signatures
- Large File Transfer

The goal of this report is to uncover what solutions are used most, how often, why and when, what was used before these solutions were deployed, and what specific benefits users have experienced. All respondents to the survey are professionals in law firms, from senior partners, to legal secretaries, to operations staff.

Based on the benefits reported by existing users of these technologies, there is a strong case for IT managers to deploy high value email and electronic document delivery technologies.

This survey report reviews:

- How law professionals are using the technologies, from a user interface perspective,
- What legal functions they are performing when they use the technologies,
- What the lawyer/end-user recommends for training and education, and finally,
- How use of the technologies 'saved-the-day' with a financial benchmark and use examples described in the words of the users.

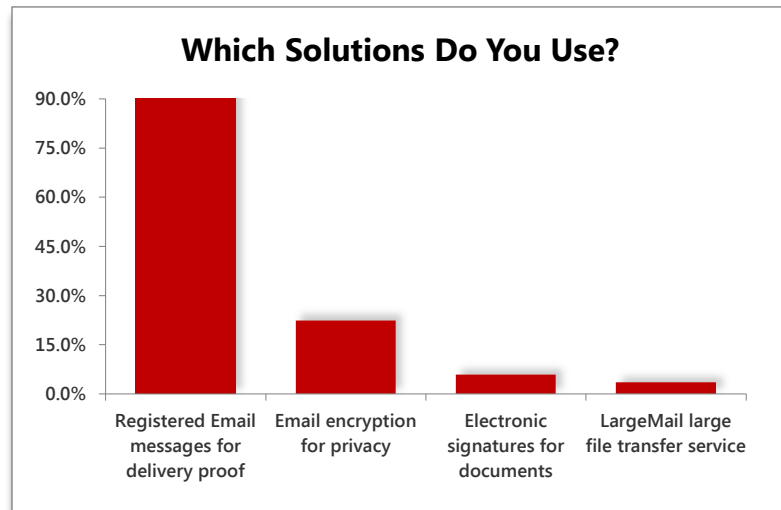
This report finds, among other data points,

- 92% use Registered Email® legal delivery proof services, with 22% sending these important messages also encrypted for data privacy.
- 56% convert messages from FedEx, UPS, certified mail and courier and 43% from standard email.
- \$4,100 realized financial benefit per user per year, based on use frequency and migration.
- 37% cited additional specific intangible benefits that exceeded tangible financial benefits.
- 88% reported the greatest value from these services was proof of email receipt.
- 50% practice in firms that have multiple offices in the United States and internationally, with approximately two-thirds of respondents supporting lawyers.
- 32% use in litigation; primarily for communicating with opposing/counter party counsel.

2: Technologies to Consider; What Users Really Use and Why

The most used solution was Registered Email® legal delivery proof services, with 92% of respondents using it. The next most important messaging technology reported in use was email encryption for data privacy (22% reported use).

Despite significant efficiencies afforded by use of electronic signatures, very few reported using them (6%) and still fewer reported using large file services (4%).



Why are legal professionals using Proof of Email Delivery tools?

Stan Gibson, law partner at Jeffer Mangels Butler Mitchell, reports the most “Common Misconceptions with Standard Use of Electronic Messaging Technologies” in their Corporate Counsel Guide to Moving Legal Notices from Paper to Electronic Delivery (see references section in this document for access to this report).

i. Printed email: A printed email can easily be denied admission into evidence by simply challenging authenticity, as one can easily change anything in an email – or the other party can easily claim the sending party altered the email.

ii. Email copy: A copy of an email sent to yourself or another person has no bearing as to whether a copy was also delivered to your intended recipient.

iii. Electronic archive: Electronically stored copies of email in an archive of the sender or recipient only provide a record of what the archiving party ‘claims’ to have happened. Even if the archiving party can forensically prove that the content in their archive is authentic, they will be unable to prove delivery or timing of receipt should the recipient claim not to have received it.

iv. Bounce notices: Reliance on bounce notices provide a false sense of security – an increasing number of recipient servers turn off bounce notices due to “Directory Harvest Attacks” and “Backscatter Blacklisting” concerns.

v. Denial of email reception: If there is a dispute, how does one present the information to the arbitrator, mediator, judge or jury? How one show what has been produced does is the authentic information and precise times of sending and receiving? Litigators can simply claim their clients never received the email or request the sender to authenticate that the email was in fact received. Ferris Research, a leading messaging analyst, reports that “3% of business-to-business email goes undelivered”.

3: What are the True Tangible Benefits?

Technologies Used

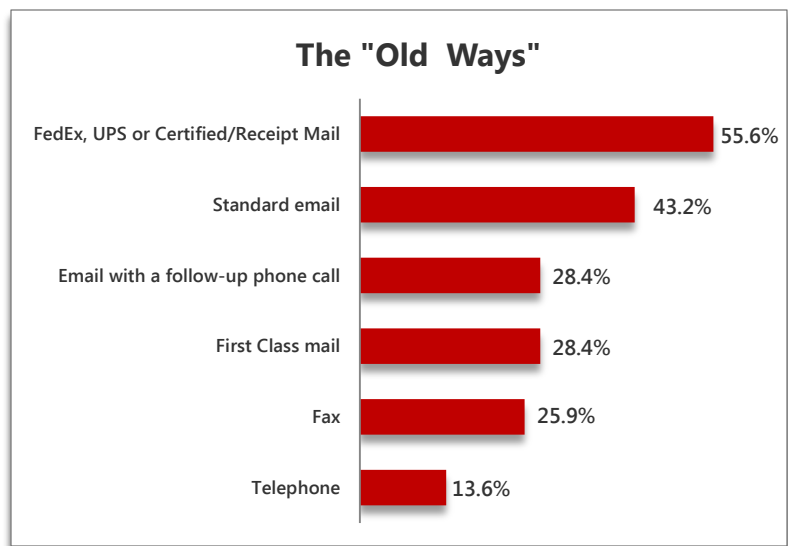
Consider what users migrated from, to using the following technologies:

- Email notices with return receipt delivery proof
- Email encryption for privacy
- Electronic signatures for documents
- Large file transfer service

Migration From

Users most often reported they migrated from expensive mail services (specifically, FedEx, UPS and certified mail), with the migration ratio reported by users as follows:

- FedEx, UPS or Certified/Receipt Mail: 2
- Standard Email: 1.5
- Standard First Class Mail: 1
- Email with Follow-up Telephone Call: 1
- Fax: 1
- Telephone: 0.5



Frequency

Consider how often users reported use of these technologies. Approximately two-thirds of respondents reported using these technologies consistently each month in volumes of less than 10 times per month and one third report using these technologies between 11 and 50 times per month. A low percentage of users used these services between 51 and 100 times per month, and in periodic bulk sends.

Significant Cost Savings per Year

For a firm of 100 lawyers and supporting staff combined, use of these technologies would save the firm: **\$410,000 per year.**

For a firm of 1000 lawyers and supporting staff combined, use of these technologies would save the firm: **\$4.1 million per year.**

These figures are based upon (a) weighted average use per user per month of 21 messages per user per month (assumes "less than 10" is 7 messages, "11 to 50" is 40 messages, "51 to 100" is 80 messages, and "periodic volume sending" is 200 messages), (b) with the migration ratio noted above, (c) assigning a value of cost to the services migrated from of \$17 per message on average (considering transmission/mail cost and administrative time of 15 minutes preparation time for each activity with an administrative time cost of \$40 per hour, an average special mail/courier cost of \$18 for postage, printing and paper, and standard mail cost of \$2 for postage, printing, and paper), and (d) assuming the cost of the use of these technology services are \$10 to \$20 per user per month. With the above assumptions, the total cost saved per user per year is approximately \$4,100.

Nice to Have or High Value?

Considering the weighted average volume of 21 messages per user month, one might ask, is this just a "nice to have" or a "high value" service?

After review of the qualitative responses from users, it becomes apparent that these messages are of critical importance, those of highest value. Users typically report their greatest benefit was gaining the upper hand in a sticky situation due to their use of the services. Many reported use of these high-value email services "saved the day".

When asked, **"have you experienced a situation where your use of RPost's Registered Email service played a significant/critical role with a positive outcome,"** more than one third (37%) of respondents reported that they had. Some of the interesting examples submitted are noted below, in the words of law firm users:

" I was working on a matter with an unscrupulous defense lawyer. I sent a Registered Email message to him and he represented to the judge that he never received it. Once I educated the judge about RPost, the lawyer quickly recanted and said he must have been mistaken. The judge didn't trust him at all after that. Not too soon afterward, the case settled."

" Yes, on occasions when opposing counsel denies receiving emails, we have used the Registered Email Receipt as proof in an exhibit. Registered mail at the Post Office is most often ignored and never picked up; with RPost we have confirmation that demand letters have been received by the recipient."

" Yes. I sent a Registered Email message to a client reporting a deadline to extend patent protection from a Chinese and European patent application to Hong Kong. The RPost service confirmed receipt by the client. Client later stated that he did not receive notice, yet we were able to prove that he had. This saved us from a potential malpractice issue."

" A quirky client who only wanted to communicate via email stopped responding to my emails as we closed in on settling a dispute. An RPost email got us back into communication to finish the settlement."

" Yes, I sent opposing counsel a response to a discovery request and he denied receiving it by the due date; but guess what? I printed the RPost report and presented it in court to prove receipt of the discovery response."

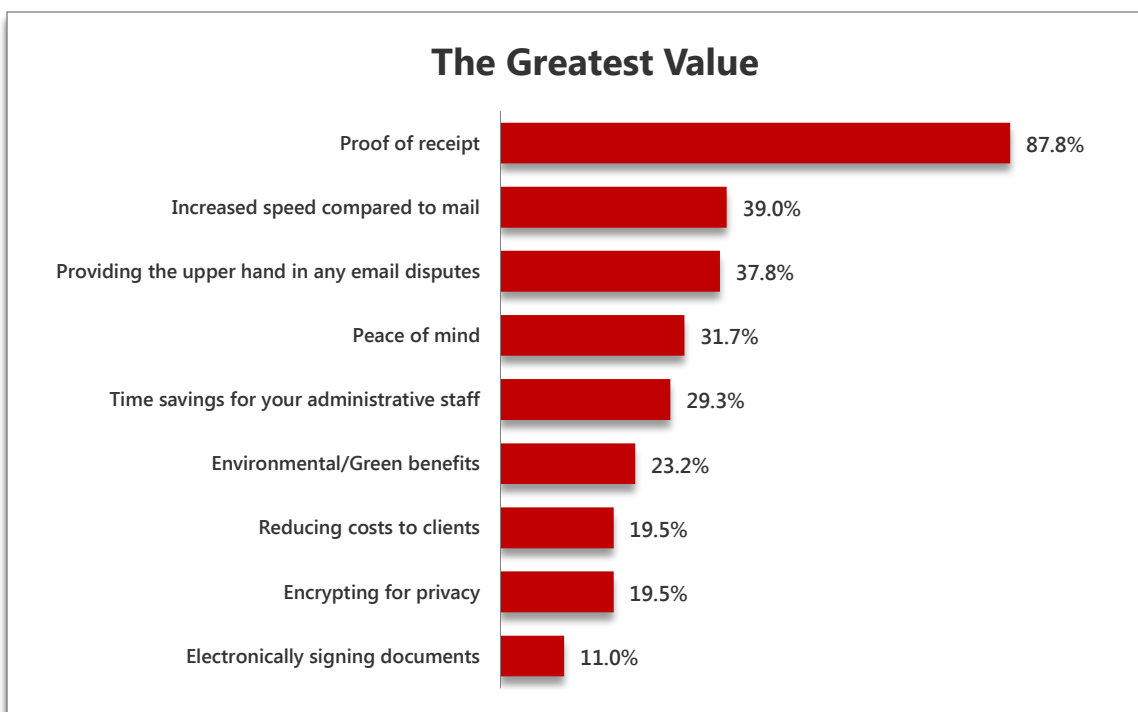
" Yes, we had a case where we were able to supply opposing counsel with the RPost "Opened" receipt and the "Delivered" receipt. This particular attorney claimed the letters and emails had not been received. We were able to fax the receipts to the attorney so they could no longer claim they had not been received. It was great."

5: The “Greatest” Value

When asked, “**What do you see as the greatest value provided by using the RPost Registered Email service,**” respondents identified:

- "Proof of receipt" as the most important reason for use, by a factor of more than two to one over the next four reasons, listed in order of ranked importance, as
- Providing the upper hand in any email disputes,
- Increasing speed of communications compared to traditional mail services,
- Peace of mind, and
- Time savings for administrative staff.

These responses suggest that the value of using these services, sending Registered Email messages (with or without encryption, e-signatures, etc.), is far greater than the costs saved.



6: Who are these Users, With Whom are they Corresponding, and In What Context?

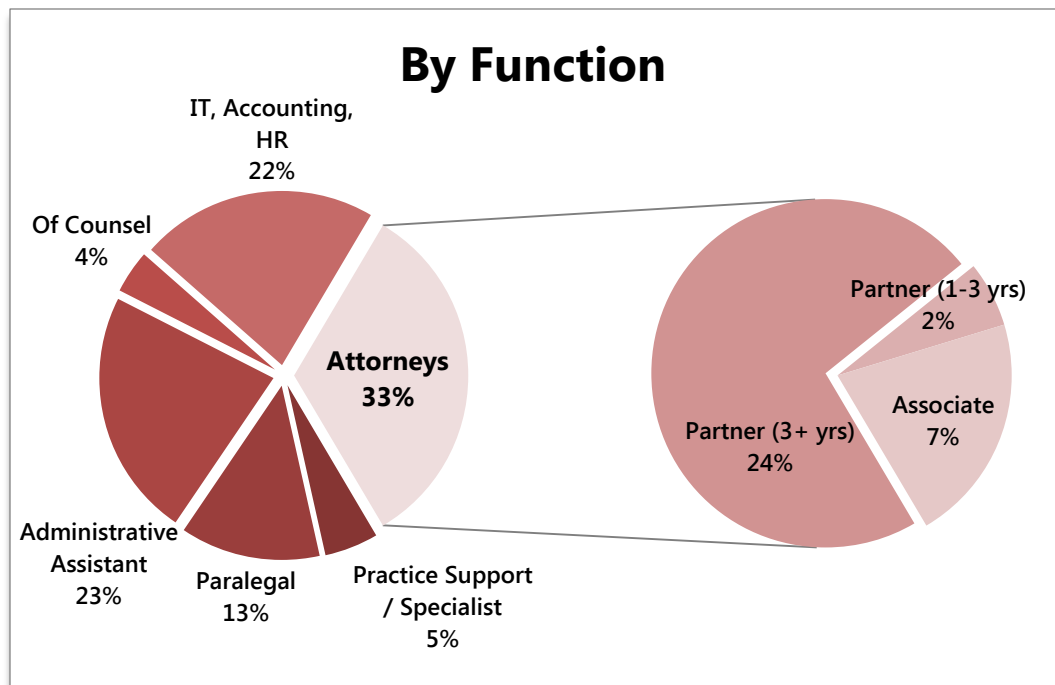
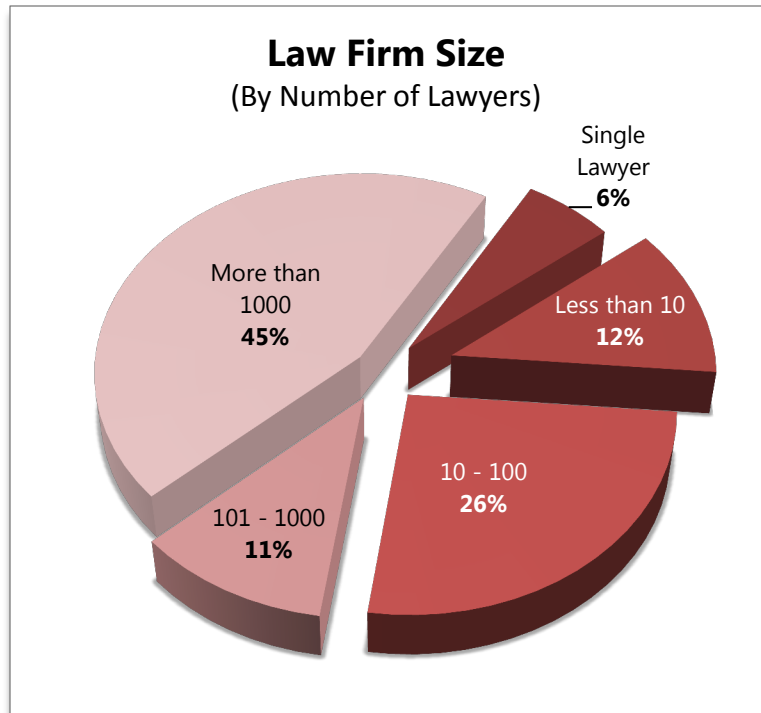
Nearly 50% of the respondents practice in firms that have multiple offices in the United States and internationally, while approximately 20% of the respondents worked in single-office firms.

Approximately two-thirds of respondents (65%) work supporting lawyers as paralegals, administrative assistants, firm operations, and practice support.

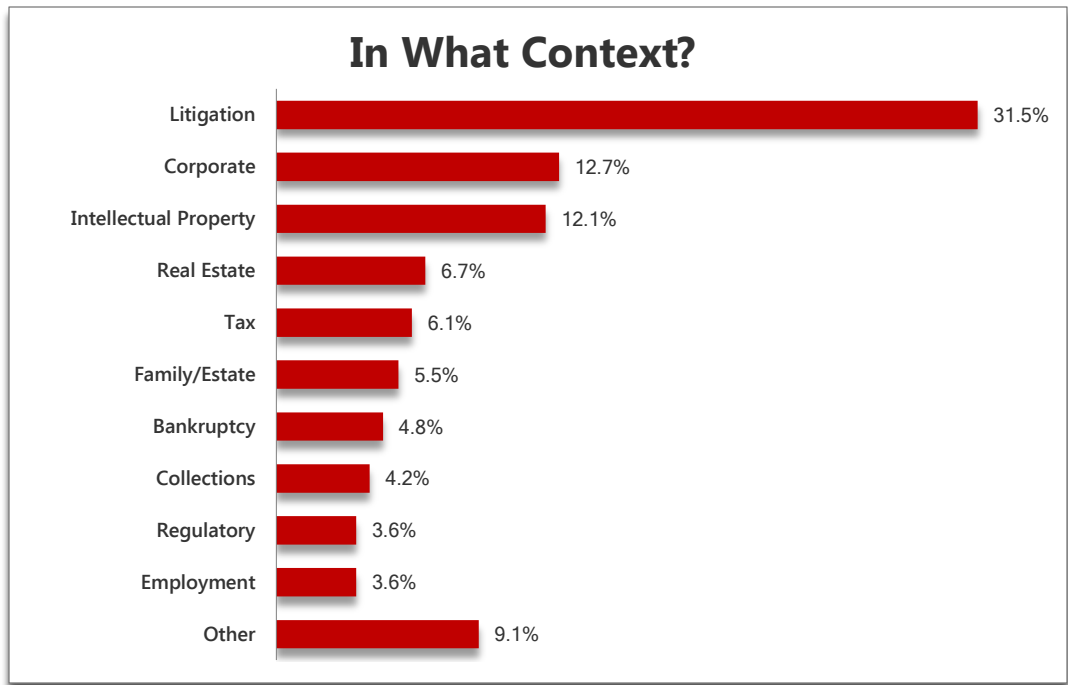
Attorneys represented 33% of the respondents, and most of them (24% of respondents) are senior law partners (3 or more years) at their firms.

While some may consider migration to technology something for the younger lawyers, the most senior user of these technologies (respondent) was a law partner of 39 years.

Other functions within the firm with users that are using these technologies were reported to be legal assistants, benefits managers, litigation secretaries, managers of risk and compliance, litigation legal assistants, human resources, and trust client service administrators.

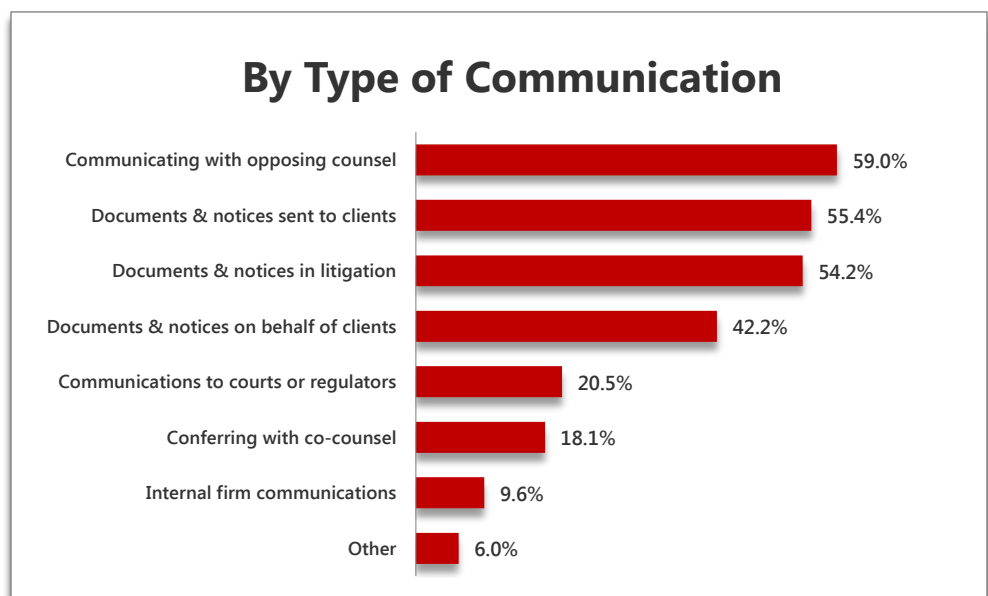


In terms of the context in which these users reported using these solutions, almost one third reported they were using them for litigation purposes, followed by corporate and intellectual property law.

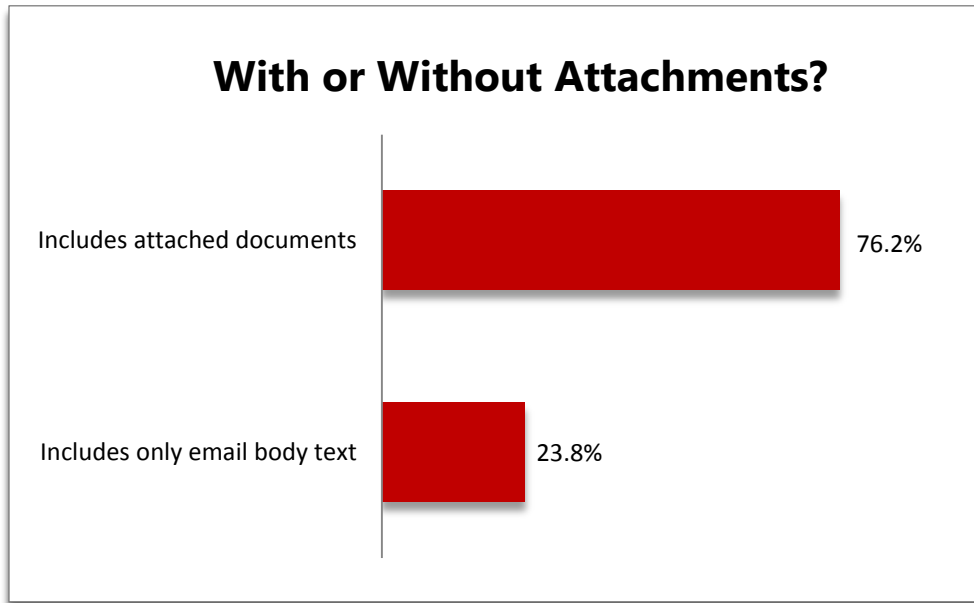


Most reported they were using these technologies for:

- Communicating with opposing/counter party counsel,
- Sending documents and notices associated with litigation, and
- Sending documents and notices to clients, followed closely by
- Sending documents and notices to others on behalf of clients.



Most of the correspondence is associated with document delivery (76%) with only 24% of the messages sent without attached documents.



Users were asked to provide more details on what type of communications they are sending through these solutions (Email Delivery Proof, Encrypted Email, and Electronic Signatures). In their own words...

" I use it most to send emails and documents to opposing parties and/or their attorneys who do not respond to "regular" emails. We often use the confirmation of delivery as proof (by way of court exhibit) that they have indeed received emails and information."

" To confirm receipt of agreements and executed settlement documents."

" FMLA notification of rights to employees and contact information for our third party FMLA administrator."

" We use it to serve docs on opposing counsel. We do a lot of filings with FINRA and they do not have electronic filing; however, they will accept proof of filing, such as a Registered Email receipt, if something is misplaced or does not make it to the docket. We use RPost for just about any communication with opposing counsel. Now that we have it, can't live without it!"

" Usually, use of RPost is intended to emphasize that I expect a prompt response."

" We are required to send tax documents to partners of our law firm and must comply with Massachusetts data privacy laws to send this information via encrypted email."

" To preserve proof of notification to opposing counsel, court, government agency or anyone I need to worry about, or to save documentation for later inquiry (e.g, proof of CLE courses taken receipts for Bar Association or Judicial inquiry)."

“ Usually to send an important document for communication or for a signature to a client. In the case of time sensitive information, we need to prove that the client actually received the correspondence and when.”

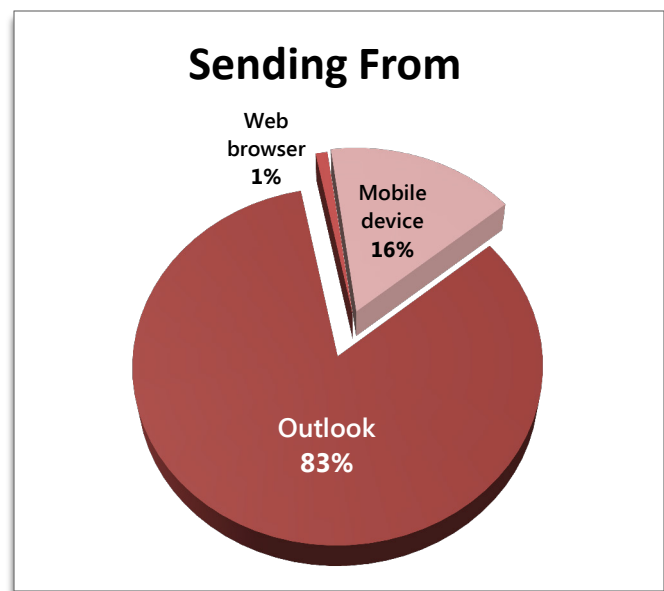
“ Whenever we need to serve Discovery on opposing counsel or when we are in the middle of a hearing and the judge's staff attorney requests specific documents.”

“ Discovery exchanges; communications with opposing counsel where an official paper trail might be necessary; service of pleadings.”

“ Contracts for signatures; cease and desist letters; individuals who have not responded to less formal communications/emails.”

“ Letters or notices for which I otherwise would have used certified U.S. Mail.”

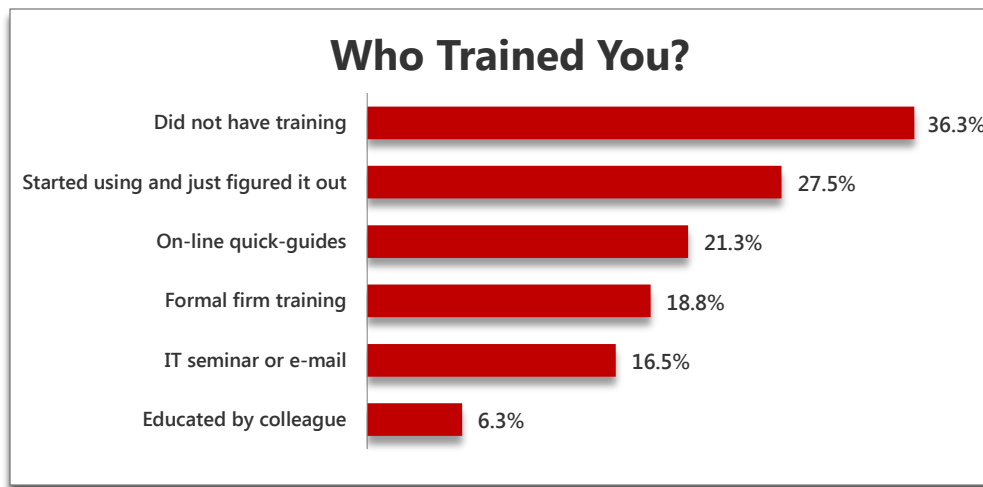
How are these users sending? An overwhelming majority are sending from within their Microsoft Outlook desktop program, and a meaningful amount are sending from, or interested in sending from in the future, their mobile device.



7: How to Effectively Deploy and Train?

As it turns out, by a factor of 3 to 1, users taught themselves how to use these services after they were installed, with one third of these self-taught users accessing RPost's online quick-guides for training.

“Frankly, it is not hard to use. The functions are well-designed, so most actions are intuitive.”



8: Summary Findings

1. These technologies – Registered Email legal delivery proof, email encryption, and electronic signature services are needed across all practice areas and across all job functions.
2. Most users need email proof of receipt for certain important messages, and some use with encryption. Electronic signatures are of interest, but not yet widely used.
3. User volume should not be the concern; rather, the concern should be that these services are available a click away when needed. Users will use the services when they need them.
4. One should make these technologies available on both desktop computers and mobile email devices.
5. The services are simple and self-explanatory, but users recommend short user training and repetitive emailed quick guides and tips.
6. With a tangible cost savings of \$4,100 per user per year, the greatest values still are the less tangible benefits of gaining the upper hand with better proof records, peace of mind, and administrative time and related savings.

Readers May be Interested in the Following Reference Materials

Legal Analyses available at www.rpost.com/resources

- Locke Lord Bissell & Liddell LLP Email Admissibility [Legal Analysis](#)
- Jeffer Mangels Butler Mitchell LLP [Guide to Converting Legal Notices](#) from Paper to Electronic

Blog: www.rpost.com/blog

- [Preparing Evidence of Receipt of Notice](#): How to Prove Service of Court Documents by Email

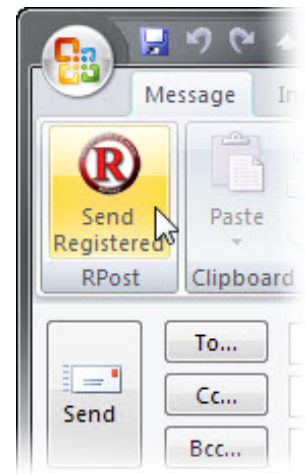
Data Sheets: www.rpost.com/resources/datasheets/services

- Registered Email Services
- Registered Receipt Proof
- Email Encryption
- Electronic Signatures

About RPost

RPost has set the standard for legal electronic messaging and document services with its patented Registered Email services for delivery proof, compliant message encryption, and legal electronic signatures. RPost services are designed for the legal industry where the speed of contract execution, data privacy, and court admissible email proof are business requirements.

Endorsed by the largest American Bar associations, winner of the World Mail Award for security, top pick in the JMBM Corporate Counsel Guide for converting legal notices to electronic delivery, RPost is used by the U.S. and international governments, global F500 companies, and AmLaw 100 firms. RPost, founded in 2000, has been granted 45 patents worldwide and operates in 8 languages.



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