

**MANAGING YOUR LAW OFFICE AND
YOUR PROFESSIONAL RELATIONSHIPS
THROUGH THE YEAR 2000**

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by

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The year one thousand nine hundreds ninety nine seven months
From the sky will come a great King of alarm
To bring back to life the great King of Angoulmois
Before after, Mars to reign by good fortune.

Nostradamus, 1559

I. INTRODUCTION This article discusses the potential impact of the "Year 2000" Problem (Y2K) on your law practice. Y2K is described. You are given a checklist of areas where Y2K may impact your office and practice. And you are given suggestions on how to take steps to avoid disruption of your practice, and contingency plans in case the worst happens.

II. LET'S PUT THIS IN PERSPECTIVE
The following story was told by Andrew C. Hove, Vice Chairman of the Federal Deposit Insurance Corporation, before the Bank Administration Institute, Chicago, Illinois, on June 30, 1998:

The renowned pianist Arthur Rubinstein was once asked to judge a piano competition in London. The scorecards were marked on a scale of one to 20, with the most outstanding performances rating a 20. During the competition

Rubinstein listened carefully to the students' recitals and marked his cards as each finished.

At the end of the competition the sponsors looked at the scores and were shocked to see that most players had been given zeros. Only a few had rated scores of 20 and there were no scores in between. The sponsors hurried over to Rubinstein and asked him why he had judged the entrants in such an arbitrary manner. "It's simple," replied the great master. "Either they can play the piano or they can't."

So too with preparations for the Year 2000. Either . . . institutions will be ready for the turn of the century or they will not.

<<http://www.fdic.gov/publish/speeches/98spchs/sp30jun.html>> [9-30-98]

Flashback to the Social Security Administration, 1989. An SSA employee in a field office tried to input a payment schedule out to the year 2000, in a program that tracked repayments to the SSA. The computer program crashed. The SSA had to get the system back up manually, because it couldn't handle dates after 2000. *Interview with Kathleen Adamy* (assistant deputy commissioner for systems at the Social Security Administration, <<http://www.ssa.gov/caosa/adams.htm>> [11-9-98]).

III. WHAT IS THE YEAR 2000 PROBLEM? Y2K is a computer coding problem involving three issues:

1. issues relating to two-digit year coding
2. issues relating to leap year coding
3. issues relating to 999 coding

A. The '00 Problem. The two-digit year coding problem occurs when computer clocks, read-only memory, and software describe a year with the last two digits, but not the first two digits (i.e., '98 instead of 1998). If the computer hardware or software cannot distinguish the year 2000 from the year 1900, then the machine may stop running, or it may assume the year 1900 whenever data calls for the year 2000, or an IBM-compatible computer may revert to January 4, 1980, the day the Microsoft DOS code was "born."

B. The Leap Year Problem. The leap year coding problem arises because 00 years are ordinarily not leap years, but 2000 is a leap year (the first such leap year since the year 1600). Many programmers were not aware of the fact that year 2000 will have a February 29. This may cause some time-sensitive

programs to make faulty calculations, and will no doubt require people to manually reset their computer system dates on February 29, 2000 or if that is not possible, then on March 1, 2000.

C. The '99 Problem. The 1999 coding problem occurs with software that uses a year date "99" as the date when certain archived data is set to expire. Years ago, the year '99 was picked as the latest date that could be prescribed for a file's expiration. Data in such files may expire on 1/1/99, or on 9/9/99. Some software uses 999 as an error message. When an error message appears in a date field, it is uncertain what will happen.

D. Not Just a Mainframe Problem. Y2K is not just a problem for large, mainframe computers belonging to the government and large businesses. To quote a page from the Federal Deposit Insurance Corporation's WWW site:

Although the greatest Year 2000 impact may be on mainframe legacy applications, Year 2000 problems are not restricted to mainframe computers or to a specific programming language. Commercial software packages, distributed database systems, local area networks (LANs), wide area networks (WANs), telecommunication systems, personal computers (PCS), data from external sources, and machinery operating in buildings will also be affected.

<<http://www.fdic.gov/about/y2k/y2kprob.html>> [9-30-98]

E. Not Just a Software Problem. It must be underscored that Y2K is not limited to old software programs. Many microprocessors have internal clocks and other processes that are date sensitive. It is quite possible that such microprocessors may cease to function, or may function erratically, beginning January 1, 2000.

F. Not Just a PC Problem. Even if your computers do not crash or malfunction on January 1, 2000, other electronic devices in your office (telephones, fax machines, copiers), or in your office building (computer-controlled doors, computer-controlled elevators), or that you use to get to your office (computer-controlled automobiles, airlines), may malfunction.

G. Not Just a Problem With Your Office. Many of the businesses that you rely on, including banks and credit card companies, may have Y2K problems that negatively impact your business. Let's all hope that companies with Y2K problems do not include the utilities delivering electricity to our homes and offices.

In 1997 the National Association of Purchasing Management reported a survey of members in which 89% of respondents indicating that their companies were either already Y2K compliant or would be in advance of year 2000. 10% expected to be compliant except for a few non-critical systems, and 1% had concern over their company's non-compliance. Ed Yardeni, *The Y2K Reporter* 4 (Feb. 23, 1998). The survey focused on large industrial companies, and did not represent the condition among small companies, the financial sector and the government sector. *Id.* *CIO Magazine* conducted a February 1998 survey among CIOs, and nearly 70% of respondents expressed concern that the Y2K problems with

their companies would not be solved by year 2000. *Id.*

The Texas government presents a particular problem. In January 1998, the 513-person management information systems office in the Texas Department of Human Services had 65 vacancies, which the agency was considering filling--with TDC prisoners! Ed Yardeni, *The Y2K Reporter* 5 (Feb. 23, 1998). The Texas Dept. of Information Resources has stated that of the more than 100 state agencies and universities, 56% were not filing Y2K progress reports. Texas' Department of Information Services had a 55% turnover rate in 1997 among computer specialists, which were leaving for higher-paying jobs in the private sector. *Id.*

H. The Brain Drain Problem. As the zero hour approaches, career computer people may start launching lifeboats from companies and government departments that are on a collision course with Y2K. Who wants to be on the deck when the Titanic goes stern-up? Keep an eye on news reports as to who's retiring and who's resigning in various industries. Miners used to take canaries with them into mines because the birds were more sensitive to lack of oxygen and would lose consciousness before humans would. When the canary died, it was time to evacuate the mine. The computer people at the various companies and government agencies are the canaries of the Y2K problem. See Ed Yardeni, *The Y2K Reporter* 7 (Feb. 23, 1998). The FAA's first Y2K program manager was appointed in mid-1997 and retired at the end of 1997. The IRS's CIO joined the IRS in March 1996, and left in April 1998. Five heads of the Y2K effort at the office of the Secretary of Defense all took early retirement in 1998. *Id.*

IV. HOW ABOUT A “DRY RUN”?

Interestingly, we get a sort of “dry run” at Y2K when Aug. 21, 1999, rolls into Aug. 22, 1999. On that date the Global Positioning Satellite system will have its own Millennium Bug crisis. The clocks in the 24 GPS satellites were programmed with a base date of Jan. 5, 1980, and the week indicator was set at a maximum of 1,024 (which is 2¹⁰ power, a function of the binary logic upon which computers operate). Thus, once the given number of weeks elapse, the clocks will revert to zero, the 1980 base date.

There is a concern that a significant number of ground-based software systems are not designed to accept the roll-over of GPS to week 0000. Pagers, cellular phones and satellite connections all depend on GPS technology. The ramifications of a breakdown in the interface of ground systems with the GPS are significant. The May 19, 1998 malfunction of Pan Am Sat’s/Galaxy IV communications satellite disconnected approximately 83 percent of the pagers in the U.S. (40 out of 48 million), some of them for more than a day.

V. “HOW CAN I TELL WHETHER I HAVE Y2K PROBLEMS?”

Don’t worry. You clearly do have Y2K problems. The issue is not whether you have them, but what they are. Once you know what the problems are, you can try to remedy them, or at least develop contingency plans in case of failure.

VI. “WHAT CAN I DO ABOUT MY Y2K PROBLEM?”

A. Preventive Measures; Contingency Planning. Your first step in addressing Y2K is to identify where your most serious risks are, and to take steps now to reduce them as

much as possible. You should then establish contingency plans to permit you to recover if Y2K strikes. The Institution of Electrical Engineers suggests that contingency planning be broken down into four areas:

- (1) equipment replacement and upgrading (see Section 15.7)
- (2) mitigation - dealing with predictable failures (see Section 15.8)
- (3) preparing for rollover (see Section 15.9)
- (4) contingency planning - dealing with the unexpected failures (see Section 15.10)

<http://www.iee.org.uk/2000risk/updates/chapt_15.htm> [9-30-98]

B. Utility Interruption. Do you use anything that runs off of electricity?

Warns G.K. Jayaram, chairman of Transformation Systems, a Princeton, N.J. information technology consulting firm: "Come 2000 there will be rolling blackouts across much of the U.S."

* * *

"In tests, several utilities have suffered system crashes as the date rolls over to 01/01/2000, says Jayaram. "Our electricity transmission network is so highly interconnected that a failure in one sector can easily cascade to others thousands of miles away."

“Embedded trouble,” by Srikumar S. Rao, in *Forbes Magazine* at: <<http://www.forbes.com/forbes/98/0921/6206258a.htm>> [9-30-98]

One positive note is that most nuclear generating plants are so old that their safety and control systems run on analog systems and not digital ones, and won't notice Y2K. Ed Yardeni, *The Y2K Reporter* 6 (Feb. 23, 1998).

The biggest disaster for your office would be failure of your local utility company to deliver electricity to your office. The utilities are more frightened of this prospect than you are, and they have been taking steps for some time to be sure that delivery of electricity is not interrupted. Utilities are faced with the problem of having thousands, if not millions, of non-Y2K compliant “embedded processors” in their networks. See “The Millennium Problem in Embedded Systems,” by The Institution of Electrical Engineers <<http://www.iee.org.uk/2000risk>> [9-30-98] Since it is a practical impossibility to replace all of these embedded processors with Y2K compliant chips, utilities have identified components of their system that are “mission critical,” and have applied Y2K fixes to those parts of their systems. There is nothing you can do to affect your utility's Y2K program, so the only area of utility interruption you can address is contingency planning.

Possible contingency plans would include being at a place you can comfortably remain for several days, at midnight on December 31, 1999. Having a few flashlights and plenty of batteries, some jugs of water, some canned food and a hand-cranked can opener might also be an advisable precaution. We may expect that any utilities who fear disruption will announce contingency plans for their users as the deadline approaches.

C. Transportation Difficulties. The next most basic professional issue, after loss of electricity, is the inability to get to your office. This could result from your automobile not starting due to a microprocessor malfunction. As we approach the deadline, we may expect automobile manufacturers to announce precautionary measures to see that vulnerable automobiles function smoothly after the deadline.

If you are away from your home city, and are relying upon an airplane to get you home, you are vulnerable to interruptions caused by problems with FAA's air traffic control system, electronic systems at particular airports, electronic difficulties with airplanes and support equipment, scheduling problems with ground crews and flight crews, and the reservation system, all of which must be highly-coordinated to get people on an airplane, up in the air, and back down again. The FAA says the following about Y2K:

Safety is the single most important concern of the FAA. The overall goal of the FAA Year 2000 Program Office is to ensure that the National Airspace System (NAS) operates safely through the Year 2000 and beyond. Several steps have been taken toward achieving that goal:

- 1.A schedule has been established that requires all FAA systems (including the NAS) to be Year 2000 compliant by June 30th, 1999.
- 2.To augment existing operational contingency plans for the NAS, Year 2000

contingency plans are being developed for each FAA system. These contingency plans detail alternate courses of action in the event of system outages due to Year 2000 issues. [Emphasis added]

3. In addition, an agency level Year 2000 contingency plan is also being developed.

Lastly, the FAA would reduce air traffic capacity before compromising the safety of the National Airspace System.

<<http://www.faa2k.com/html/safety.html>> [9-30-98]

The FAA has 430 mission-critical systems. If a sufficient number of them malfunction on January 1, 2000, the FAA may ground air traffic. Ed Yardeni currently predicts that the FAA will keep the airplanes flying, but at reduced capacity. Ed Yardeni, *The Y2K Reporter* 1(Sep. 21, 1998).

How will each airline fare?

Airline computer systems are highly interconnected. Information about seating, baggage and connecting flights must be accessible to agents of different so they can coordinate each passenger's trip -- means that one airline's Y2K problem is every airline's Y2K problem. Delayed or canceled flights and lost baggage could quickly grow into a logistical nightmare.

“Air Travel and Y2K”<<http://year2000.dci.com/articles/1998/09/30air.htm>> [9-

30-98]

Your best response is to avoid having to rely upon aviation to get you where you need to go on or just after January 1, 2000.

D. Building Access. Assuming you can get to your office, will you be able to access it? If your electrical grid is down, of course, electric doors will not open, nor will elevators operate, nor will heaters work, nor will windowless hallways or offices have light. If the electrical grid is okay, you may still have building operational difficulties, such as problems with recognizing the electronic card you use to unlock the door to a building, problems with elevator control, etc. Your building owner and operator are more concerned than you are about the building operating on January 1, 2000, so they will be taking steps to assure functionality. The best you can do is to contingency plan, which would include not being in your office at midnight on December 31, 1999, and might include taking the most important work to be done in the first few days of 2000 home with you on December 31, 1999.

E. Computers This first step to take to avoid Y2K for your computers is to find out which computers in your office are vulnerable to Y2K malfunction and to get them upgraded in advance, to the extent possible. In all probability, all Pentiums and Pentium II's are Y2K compliant, most 80486's are compliant, and most 80386's are not compliant.

If your computers were obtained from a major manufacturer (Dell, Gateway, Compaq, IBM, Acer, etc.), you can go to that company's World Wide Web site and see what they say about Y2K compliance and fixes for Y2K. See the Directory of Manufacturers Y2K

Compliance Statements: <<http://y2k.comco.org/bycompany.index.htm>>.

If your equipment is listed as non-compliant, the manufacturer may offer an upgrade to your BIOS (Basic Input-Output System) chip. If so, then by all means do the upgrade well in advance of December 31, 1999.

If you purchased your computer from a retailer, then talk to that retailer about your machines' Y2K compliance, and follow their recommendations about upgrading to avoid the problem.

For Users with a Sense of Adventure: If you've got guts, you can run your own Y2K test. Set the clock on your Windows screen forward to 11:58 p.m., December 31, 1999. Then shut down your machine. Wait 5 minutes. (It's a long five minutes!) Turn your machine back on. If your system clock on boot-up shows 12:03 a.m. on January 1, 2000, you're okay. If your clock shows a date in January, 1980, you've got trouble.

With any computers that cannot be made Y2K compliant, consider replacing them--or at least replacing the most critical computers in your office--with Y2K-compliant computers in advance of December 31, 1999. If on January 1, 2000, your most important machines are new or upgraded and functioning, you can wait and see how bad your other equipment is doing after the deadline before you decide whether or not to replace it. Upgrading your most important machines, or buying at least one Y2K compliant computer, could permit you to do business at a reduced capacity, even if you lose some of your computers on January 1, 2000.

Important contingency planning for computer malfunction would be for you to put on paper

important information that is stored only electronically. This would include your court schedule; your list of prior clients to use for conflict-check purposes, your electronic accounting ledger, your electronic check book register, etc.

F. Computer Software With the wide variety of outdated software being used in offices, we may expect that some software will malfunction or cease functioning on January 1, 2000.

a. Preventive Measures to Take Regarding Your Software. Preventive measures include:

1. construct a list of all software that you use in your office, and determine the version of software involved.
2. go to the manufacturer's WWW page to see what they say about Y2K compliance for the specific version of software you have.
3. if your software is not Y2K compliant, replace it with newer software that is Y2K compliant.
4. convert all old software data files made under prior versions of the software to Y2K-compliant versions.

b. Microsoft Products. Microsoft breaks its software products into the following Y2K categories:

Compliant	The product fully meets Microsoft's of compliance. May have prerequisite patch
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	or service pack for compliance	issues); Internet Explorer 4 (compliant); Office Professional 7.0 (compliant with minor issues); Powerpoint '95 & '97 (compliant); Windows 3.1 (compliant with minor issues); Windows 95 (compliant with minor issues); Windows 98 (compliant); Word 6.0 & 7.0 (compliant with minor issues).
Compliant	The product meets Microsoft's standard of compliance with some	
with minor issues	d i s c l o s e d exceptions that constitute minor date issues	Here is the URL for a list of Microsoft products that are not Y2K compliant: < http://www.microsoft.com/technet/topics/year2k/product/user_noncompliant.htm >
Not Compliant	The product does not meet Microsoft's standard of compliance	c. Corel Products. Corel uses an approach similar to Microsoft's, dividing its software into categories: compliant, compliant with minor issues, not compliant, in testing, under review, and will not be tested. See "Corel Year 2000 Tested Products," < https://livewire.corel.com/cfscripts/y2k/index.cfm > [9-30-98]
Testing yet to be completed	Product test is not yet complete or has not been started but will be tested	Important products and their status are: WordPerfect 5.1+ for DOS (in testing as of 9-30-98); WordPerfect 7.0 for Windows 95 & NT (Compliant With Minor Issues: details pending).
Will not test	The product will not be tested for compliance	

"Microsoft Year 2000 Test Criteria,"
<<http://www.microsoft.com/technet/topics/year2k/product/product.htm>>

Here is the URL for a list of Microsoft products that are Y2K compliant, or are compliant with minor issues:

<http://www.microsoft.com/technet/topics/year2k/product/user_compliant.htm>

Included on that list are: Excel '97 (compliant); Front Pagine '98 (compliant); Internet Explorer 3.xx (compliant with minor

d. Contingency Planning. Important contingency planning for software malfunction would be for you to put on paper important information that is stored only electronically. This would include your court schedule and office accounting.

G. Other Office Equipment Almost all multi-office telephone systems are networked through a processor. If the processor loses functionality, you will be unable to use your telephones. You could consider having one traditional telephone directly connected to an outside telephone line.

H. Office Supplies Your office supplies themselves will not have Y2K, but your supplier might. Stock up before year-end.

I. Banking The effect of Y2K on the banking industry is an important concern.

In testimony presented to a congressional subcommittee hearing addressing Y2K on February 24, 1998, Federal Reserve Chairman Alan Greenspan described the Federal Reserve's past role as financial safety net, "We had a very major bank in the city of New York a number of years ago, whose computer went out. And the New York Federal Reserve Bank had to lend them \$20 Billion overnight. Now, if we weren't there, I can tell you that the system would have been in very serious difficulty. So, part of what we are trying to do is figure out what we can do to assuage whatever problems might arise."

"Financial Community leads the Y2K Race," by Peter de Jager, *Wall Street Journal* (9-28-98), <<http://www.year2000.com/y2ky2krace.html>> [9-30-98]

Donna Tanoue, Chairman of the Federal Deposit Insurance Corporation, said to a meeting of the National Bankers Association Philadelphia, PA, on September 2, 1998:

Year 2000-related risks are the number one safety-and-soundness concern at the FDIC.

<<http://www.fdic.gov/publish/speeches/98speeches/sp02sep.html>>

Federal and state bank regulators are planning for a "run" on banks in the period of time before December 31, 1999, according to Texas Banking Commissioner Catherine Ghiglieri, in a speech to the Independent Bankers Association of Texas on September 28, 1998. *San Antonio Express-News* F-1 (Tuesday, Sept. 9, 1998). Banking authorities will attempt to head off a "run" through "consumer education," but the Federal Reserve Board has put in an order for extra \$50 billion in currency, and banks are advised to keep additional cash on hand leading up to December 31, 1999. *Id.* at F-8. According to a survey conducted in May 1998 by Texas Bank regulators, 80% of banks are "satisfactorily" dealing with Y2K. Exactly what this means, and whether it is nothing more than "consumer education" to avoid massive withdrawals, remains to be seen. *Id.* at F-8. You might consider having an extra supply of cash available when the clock turns, and you might consider having a substantial cashier's check made payable to yourself, in case your bank is unable to clear checks. With a cashier's check you should be able to open a temporary account at a bank whose system is functioning.

J. Adjust Your Work Load. Perhaps one of the most important things you can do for all of these Y2K problems would be to do as many time-critical tasks as you can before December 31, 1999, so that whatever problems surface on January 1, 2000, it will not cause you to miss any deadlines. Build as much of a time cushion as you can into your workload, so that if you are unable to work normally for a while after January 1, 2000, you will only be losing time and money and not missing important deadlines.

K. Bring Your Client Billing Current During December. If you carry your unbilled time and expenses on a computer, send bills to your clients during December, and then make a paper record of your time and expenses from that date through the start of the new year.

L. Do Year-End Accounting Before Year-End. If you use a computerized financial accounting system in your office and you lose your hardware or software on January 1, 2000, you may be required to re-enter data that is lost in the roll-over to the new year. It would be better to do year-to-date calculations through November 30 or December 15, 1999, and print them out, so that you only have to enter December information in order to round out the year.

M. “Fill’er Up” Fill your automobile gas tank to the tip top in the evening of December 31, 1999.

N. Wait for the Frenzy. If the year 999 is any indication, we can expect an increase in doomsday predictions of all kinds as 1-1-00 approaches. If Y2K strikes in a big way, in America or overseas, we will learn how reliant we are upon computers and how vulnerable we have become in our reliance.

O. Final Contingency. Get yourself a really fine bottle of champagne, and when it gets close to midnight on December 31, 1999, pour yourself a glass, lean back and watch what happens.