Why eSigning is Not Your Savior

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So much has been in the press recently about the number of documents eSigned reaching astronomical levels, and there's so much confusion about what the eClosing pilot was and what it really means. With all this noise, it's really got to make your head spin.

Here is the simple truth: eClosing is not eSigning. eSigning is not what will make your business perform better! To understand this, you need to look at the industry today and realize the Closing Process, the part performed by the Title Agent, Closing Attorney, or Mobile Notary, is a completely manual process and is not standardized.

The real business value is derived from the control, management, transparency, and standardization of the closing process, whether it's paper or electronic. So eClosing and eSigning by themselves will have very little impact on your operation. To be effective and realize value in efficiency, accuracy, and to align with the CFPB, it's required that every closing follow a process that includes and puts the consumer first.

This statement is actually old news, and if you search hard enough you will see as early as 2008, attempts at eSigning and eClosing produced this very result and conclusion. So before you fall victim to the hype, look seriously at what is missing and what a solution covers.

eSign Controversy

Since I made the statement about eSigning not being eClosing, I thought I should explain. Almost everyone has seen the ability to apply a single signature to a document. When it's just one document in a simple contract form, maybe it makes sense but not in a critical and multiple-document environment. So the question is, what kind of eSignature method is the right one?

If you do your homework, you will find several types of electronic signatures that can be captured, but you really have to dig to find out which ones are better and why.

When you view case law on eSignature cases, you will find consistency in challenges of eSignature, not about the technical components but about the circumstances around its use:

- **Click to Sign** - a digital representation of a signature applied with a click of a mouse.

  This approach seems to be the most challenged in cases, but not about its technical application, but around how it was used.

Most cases challenge the intent of the click, and whether it was intentional, accidental or even performed by the supposed user. The ease of use in the click seems to be the issue.

- **Actual Electronic Signature Capture** - a method and approach using technical components of drawing a signature, but using technology vs. a pen

  The approach contains a component of handwriting and is less challenged because you can't argue the drawing component, and its use can only be intentional.

An additional circumstance surrounds the presentation and functions around the signature, in areas where PIN numbers are used, review of documents, and signature receipts. It is critical to present the closing or signing embedded in specific processes, thus requiring the user to acknowledge and take other actions, such as education, review, and intent to sign. This combined with pictures and PIN numbers create a story or circumstance that is undeniable that the person knew what they were doing, and expressed specific intent in multiple actions supporting the eventual signature.

As an added protection, functionality like signature receipts (where the user once again confirms and signs a receipt saying they in fact signed a list of documents), detailed identity validation and process logs support the entire process.

Be sure to consider all facts and functionality before falling victim to the hype of millions of documents being processed.

Finding Value in Today's World

One last point that may be the most important: you do not need a spot solution for eAnything! A spot solution would accomplish only the needs of today, and although it might be cheaper, it has a short shelf life. You need a platform that can provide solutions for any process, from manual to eNote, and one you can evolve on at your pace.

The evolution of eClosing and Closing Process Management is well defined and clear; this industry will have a mixed bag of paper, hybrid, digital, and eNote closings for some time. A good digital closing platform allows you to gain value in each of the categories, and operate in any mix of these different closings, but by still providing you with standardization, transparency, world class consumer experience, and alignment with the CFPB mission, vision, and values.

These platforms allow evolution to occur with huge benefits being realized from each category.

Just like any software or technology, it must add value, it can't just replace. There is massive benefit to technology, however nothing is absolute. Research is required, and a longer-term strategic approach is usually the best one. Find value in today's world that translates in tomorrow's standards. Find a strategic partner, not a spot solution or hyped up technology in the news.
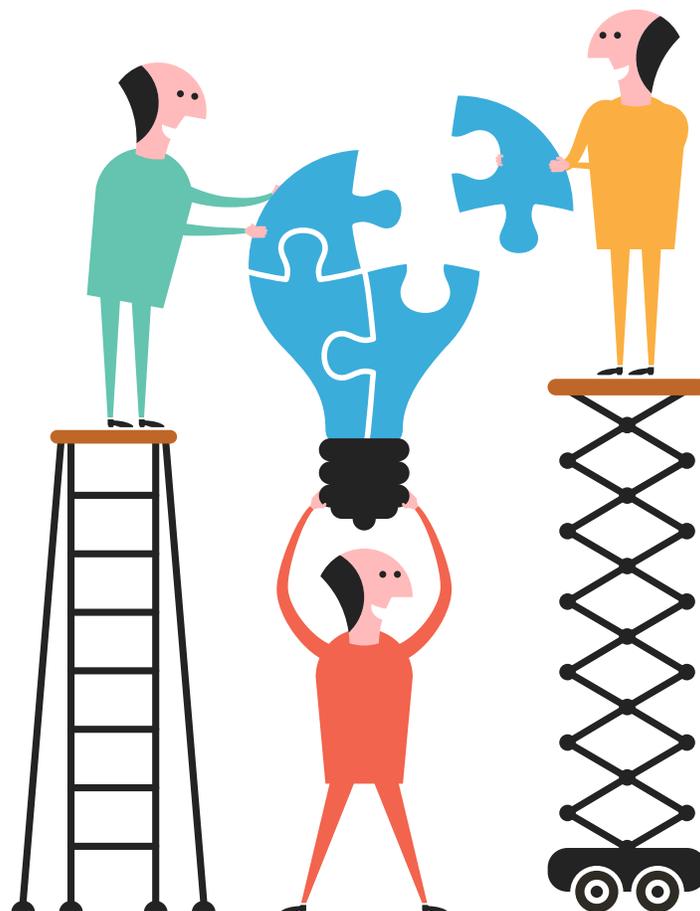
About Mark McElroy

After starting in Fortune 100 application development in 1984, McElroy moved to a partnership in 1996 at the multi-national SAP firm IT Services, Inc., where he helped grow the business to $40M in annual revenues by 2000.

In May 2001, McElroy purchased RamQuest, Inc. with several other investors. During his tenure there as President and CEO, revenue increased 28 fold for 50 consecutive quarters of profitability, the user base exploded to 30,000 users nationwide, and several new products were developed and launched for the title industry.

In 2011, under McElroy's direction, RamQuest began to widen its focus and develop products and services for vertical real estate markets under the Guardian Consumer Services brand, which officially launched and separated in 2014 as Pavaso, Inc.