

Increase Efficiency, Minimize Risk and Reduce Cost by Automating Case Management Workflows

By Erez Bustan with Miki Kim

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“What this economy has done, what I've seen, is that our clients are carefully looking at how many lawyers are on a case, who's doing what type of work, and can the work be pushed down to someone that is more junior.”

Richard Ripley, Partner

Howrey LLP

“Law firms revise recruitment practices”

NPR - Marketplace, September 23, 2009

In a tightening economy, law firms are finding it essential to control costs wherever they can. Attorneys and staff are being tasked by firm management and clients to do more with fewer resources. As a result, firm technology committees and departments are making process improvements that are necessary to leverage their workflow. These process improvements often involve one or more solutions to automate docket management, forms and document management as well as efficiencies of electronic filing.

According to the recently published ILTA 2009 Purchasing Survey, 40 percent of survey respondents planned purchases in 2009/2010 for solutions that include docketing and document management. New demands and advancements in docketing, as an example, have changed the face of automated case management solutions. By integrating all aspects of the case management process, workflow technologies can increase productivity for staff, and greatly reduce risk for firms while, at the same time, improving client services.

Automation: The technique of making an apparatus, a process or a system operate automatically; automatically controlled operation of an apparatus, process, or system by mechanical or electronic devices that take the place of human labor.”

Merriam-Webster Online

Workflow: The flow or amount of work to and from an office, department, or employee.

Dictionary.com

Automation of the case life cycle and effortless integration with existing applications are key factors in decisions regarding docket and document management software purchases. Law firm network applications that do not have a case management system (CMS) to pull it all together are like an orchestra without a conductor. There are always great instruments, and few, but extremely talented musicians. However, in order for the whole to become a world-class symphony, there needs to be a unifying force...a conductor. Bringing together software investments and staff in harmony requires at least one automated CMS to function as the conductor of the firm's network software and case or transactional workflows.

Why a Conductor?

By themselves, musicians can be quite accomplished, but if a diva violinist does not communicate with the oboist, the orchestra will be in a world of discordant hurt. Interpretive control exercised by a conductor brings focus to the orchestral score. With cuts to an orchestra's budget, conductors are tasked with creating the same caliber of music with fewer artists and with instruments that haven't been upgraded since the inception of the recession. A good conductor will work with a trimmed down orchestra, but will also grumble all the way to the podium.

Here's where we send our conductor analogy packing: While automated CMSs bring harmony to a network, they also thrive under budget constraints. CMSs, by nature, are money misers particularly if you find a CMS that leverages existing solutions within your environment – something everyone needs in an economy like we are facing today.

Does your firm need a CMS? Ask the following questions:

- Are there scattered applications and processes (e.g., clients, matters and timekeepers, or records, conflicts and DMS) that are not integrated with each other?
- Is the learning curve so steep that it takes new hires weeks, or sometimes months, to learn how to navigate through the firm's network maze?
- Are documents randomly organized and named inconsistently?
- If so, do attorneys and staff spend an inordinate amount of time searching for files, assembling reports and piecing together case information?
- Is your staff forced to pull dates from multiple applications in order to cobble together a single docket entry or event?
- Are deadlines missed?
- Is there inconsistent tracking of eFilings?
- Has any filing – be it a court or agency filing – been rejected because of an out-of-date or unofficial form or forms?
- Do you have nonuniform databases, reporting and management of deadlines?
- Does the firm have difficulty reassigning deadlines when attorneys leave the firm?

If the answer is yes to any of these questions, there are impediments to your workflow that can cause serious risk management issues for your firm. Purchasing a CMS will eliminate most, if not all, of these potential hornet's nests while saving the firm time and money.

Benefits

“Effectively using CMS [Case Management System] not only will empower your users with increased productivity, but will lower costs and increase your firm's profits in tangible, measureable ways.”

Andrew Adkins III

Law Technology News (March 13, 2009)

Like any talented, cash-strapped conductor, we must balance our aesthetic yearnings with audience (or client) desires. Simply put: no audience (client), no money. We are in the business of client services, and when we speak of clients, not only are we referring to the paying customers but also the staff and attorneys that take the product and run. Everything that enhances our technology environment and staff's ability to perform will impact the quality of our client service, which also impacts the firm's bottom line. For example, an integrated docketing

solution or CMS based on a docketing system can ensure events are handled in a timely manner, reducing malpractice risk resulting in lower malpractice premiums. Or when a client requests information, there shouldn't be lengthy delays while staff hunts down documents in the far-flung reaches of a firm's network. In the world of docketing and/or CMSs, physical files are attached to a case record, and reports generate swiftly, which goes a long way to minimize client services response times.

The following are more benefits to implementing a fully realized CMS:

- Most CMSs are scalable for growing firms and growing client lists.
- Web 2.0-based applications can provide easy internal and external access. Case information is available whether an attorney is in the office or on the road.
- When data is centralized and workflows are automated, CMSs are generally easy to use and easy to train, which can promote firm-wide adoption.
- The system effortlessly transitions cases or transactions to new attorneys. If an attorney joins or leaves the firm, all case details are available in a centralized, accessible location on the network.
- Everything detailed above translates into more efficiency, which lessens overall costs. In many instances, the ROI can be realized in a few months.

“Maximizing the use of technology makes dollars and sense. Consider the following well-known example: if you bill \$150 per hour, but can save six minutes per day by using a computerized CMS, a \$1,500 investment pays for itself in less than five months.”

*Daniel J. Siegel
“Improve Your Practice With Technology”
The Legal Intelligencer (May 22, 2008)*

Which CMS is Right for Your Firm?

Case management has a variety of monikers: case management, matter management, practice management, information sharing systems and knowledge management (although some consider case and matter management aspects of knowledge management). Regardless of the name, the goal of a CMS is to centralize data and, as much as possible, corral applications. This includes:

- Case information
- Contacts
- E-mail
- Documents and document assembly
- Activities (e.g., tasks, phone calls, notes)
- Calendared events
- Time, billing and expenses
- Reports

Not all CMSs are created equal, and although some would argue the available CMS offerings have stabilized, there is no dearth of CMSs on the market. But can you pull any box off the shelf and load it into your network? Probably not. You must carefully examine your network. Some CMSs contain DMSs. If your firm licenses software from Autonomy Interwoven, WorldDox™ or OpenText, this system may not be for you. Do you need everything a case management option has to offer? Do you have outdated software that needs replacement?

You must also keep in mind user needs and processes. Is there software that would raise a lynching party if you decide to eliminate it from your network? Remember, you don't need to throw the baby out with the bathwater. If an application works for your users, you needn't unload it in order to accommodate new software. CMSs should be customizable for your environment. In this economic environment, flexibility is the operative word. Can the software adjust to your practice methods and improve upon it – or does it feel like you need to compromise too much in order to implement a particular case management solution?

So the true question should be: can the CMS, if necessary, make the most of the tools available within your network? As with most software, new applications must be massaged until they fit into your network. A CMS will require additional care whether it replaces existing applications/workflows, or whether it integrates with existing software.

Docketing as Case Management Software

“Docket and calendar control was one of the first risk management issues identified by the insurance industry.”

American Bar Association

“Law Firm Loss Prevention Systems and Procedures”

Paul M. Ablan, JD, CPCU, ARM

St Paul International Insurance Co. Ltd.

Now that we know *why* a firm should have a CMS and *what* to look for in a CMS, let's explore the new breed of hybrid CMSs. It makes perfect sense that software developers are morphing docketing applications into CMSs. Some docketing applications are uniquely qualified to act as an automated CMS because of the inherent requirements for successfully administering a case life cycle.

Fully evolved docketing systems automate the litigation or transactional docketing process by inserting automated rules from a robust database. They add events to team member calendars through bidirectional integration with Outlook that will synchronize with Blackberries, iPhones, and other PDAs. Docketing systems usually contain a form of document assembly and document management; and can be integrated with accounting software (time/billing).

An additional complication has been added to the mix over the past few years with the advent of electronic filing. Sophisticated docketing solutions have made incredible advancements in this arena. There are existing systems that contain intelligent scan technology, allowing staff and attorneys to automatically docket and calendar by simply accessing court e-filing receipts. Instead of hunting down the e-mailed court receipt then entering the information and attaching pertinent documents manually (if this feature is even available), new docketing technology will perform the intelligent scans of the notice of electronic filing confirmation e-mail. The staff member need only open the receipt in the docketing solution and select the listed pleading to trigger the following process:

- The docket is automatically created.

- Events based on the associated rules will populate and send calendar entries to the specified target team members.
- A link to forms associated with the event will appear in the event record.
- Pleadings attached to the court's e-mail receipt will be inserted into the docket record.

The whole process is streamlined for the attorneys and staff, which minimizes risk by increasing accuracy, improving efficiency, and reducing cost and time.

Docketing Solutions Checklist

Besides centralizing data, the following is a list of questions to consider when vetting a docketing information sharing system for integration with a firm's network and workflows:

Current Network and Practices

- ✓ Does the solution easily integrate with existing network applications?
- ✓ Does it integrate with the existing DMS?
- ✓ Can the solution link to your existing time and billing system or does it contain its own, proprietary time and billing system?
- ✓ Can the solution link to historical documents pertinent to the case or deal and integrate with other indispensable tools (e.g., court forms software)?
- ✓ If your firm is converting from another solution, does the docketing system have a documented plan for importing data from the legacy system?

General Features

- ✓ Is the solution flexible/customizable (e.g., can it use existing SQL information)?
- ✓ Is there a substantial automated court rules database that addresses the needs of your litigation practice group?
- ✓ Is the solution customizable for nonlitigation practice groups (e.g., transactional)?
- ✓ Can an unlimited number of attorneys and staff be assigned to a case?
- ✓ If required, is the solution capable of building ethical walls?
- ✓ Is the solution scalable for growing firms?
- ✓ Is there an intuitive user interface that functions as a control panel by providing a snapshot of the entire life cycle of a case that allows rapid absorption by attorneys new to the case? Does this control panel contain easily accessible links to docket/case-related documents and information?
- ✓ Is the solution a Web 2.0-based application that can provide easy access internally and externally for attorneys and staff?
- ✓ Is your firm moving toward external file sharing? Does the solution integrate with SharePoint?
- ✓ Can reports generate swiftly thus providing improved client services response times?

Accessing the Solution and Outlook

- ✓ Will a docketing system efficiently assign/reassign attorney deadlines?
- ✓ Can it accommodate national/global time zones (teams)?
- ✓ Does the solution integrate with Outlook as a desktop plug-in or does the solution need to integrate with the actual Exchange server? You never want to risk compromising Exchange data with a third-party application.
- ✓ Can the solution easily track docket deadlines through Outlook calendar integration?
- ✓ Can Outlook reminders be set by attorney, court or case?
- ✓ Can staff view CM/ECF attachments from Outlook appointments/e-mails and, accordingly, via iPhone, Blackberries and other PDAs?
- ✓ Many docketing solutions claim to have an Outlook bidirectional piece, but bidirectional features vary from product to product. At a minimum, is there a single linked location to change calendared information on both the event and the calendar item?

And, of course:

- ✓ Is the system easy to use and easy to train to encourage adoption?
- ✓ Are there tools that allow attorneys to quickly absorb existing or new case information?
- ✓ How knowledgeable and generous is the technical support contract? Will the vendor provide train-the-trainer sessions and/or handle the entire training schedule during the roll-out?
- ✓ What type of day-to-day support does the system's vendor provide?

Which leads to the next topic...

Implementation Strategy: Training and Support

After careful selection of a season, hours of rehearsal and years of combined musical experience brought to fore, it is now time to unveil the conductor and orchestra to the audience. To expose a novice to a complex Wagner piece without so much as a short primer can send a new audience member screaming from the concert hall – possibly coloring his or her impression of Wagner forever.

So, too, is the case with software rollouts. Firms spend months selecting a CMS and/or docketing solution. The IT department devotes many more additional months customizing, integrating and testing the product as well as hours of meetings and discussions with other departments. All of this work could be for naught without a comprehensive training and support implementation strategy that stretches beyond the first few weeks of firm-wide implementation. As everyone knows (or should know) the days of throwing software at users and hoping it sticks are thankfully over.

Garbage in; garbage out. Any application is only as good as the quality of data entered, but the need for exact information is magnified exponentially when discussing a docketing or case management solution because of the risk and efficiency issues associated with incomplete or

wrong data. Training is important to any new software rollout, but it is absolutely essential when strategizing the longitudinal success of docketing or case management products in your environment. As such, it would be wise for a project manager to add the following tasks to their planning implementation list:

- *Development of a long-term strategy for maintenance (training and support) to sustain the product's success.* A firm must exercise continual vigilance to preserve their hard-won risk management and efficiency workflows.
- *Establishment of interdepartmental buy-in as a part the long-term plan for adoption.* It is one thing to have a great plan, but if there's no buy-in, scheduling maintenance training and support a year or two following implementation may become problematic.
- *Plan for the natural (or unnatural) attrition or addition of staff.* A primary consideration: who are the cheerleaders and experts? The project manager should have a plan B if the cheerleader or expert leaves the firm.

Make use of your vendors. They are uniquely qualified to facilitate creation of a rollout strategy, especially in terms of building a solid plan for adoption. It also behooves the vendors to participate in the long-term health of their application in your environment. They want firms to be long-term clients, and in this economy, are willing to go the extra mile to make that happen. Here are questions and considerations to discuss with the vendor prior to purchasing the new solution:

- ✓ ***Does the vendor have a Train-the-Trainer or Trainer Certification program?*** Firms should have three on-site "experts." Experts can include a member of the in-house training department, application support/help desk, and docketing/litigation support.
- ✓ ***What kind of training will be available for the firm?*** Does the vendor understand the difference between attorney needs and staff needs? Are those differing needs addressed in their curriculum? Do the vendors have CLE certification for your state? Do the vendor's training options accommodate user's diverse learning styles?

A word about Instructional Design: Instructional Design is a pedagogy that takes a holistic approach to teaching by incorporating student history, student needs and the instructor's goals and needs, packaged with a behavioral-based methodology. Although this is an overly simplistic explanation, if the vendor's training department is unfamiliar with basic instructional design tenets and if they provide a single cookie-cutter class, then it is probably best to skip their offerings and invest exclusively in the Train-the-Trainer options. Your trainers may be better equipped to create curriculum because of their understanding of the firm's user base and their requirements. Remember to take steps to make certain the software company is available to support the training department as the need arises.

- ✓ ***Will the vendor provide Quick Reference Guides (QRGs) customized for your environment?*** Software companies always have a set of QRGs for clients. Unfortunately, the ingredients may be the same, but the cake will usually be different. One-size-fits-all QRGs can be more confusing than helpful once a firm's DMS, other applications and firm policies are thrown into the mix. If a vendor offers up their QRGs, review them carefully to make sure the content is aligned with your environment. If not, ask them to adapt the QRGs for your firm.

- ✓ **Does the vendor provide ongoing maintenance training via SCORM*-compliant e-learning modules?** Are the e-learning modules updated, as necessary, for each new release?

*Sharable Content Object Reference Model. SCORM-compliant e-learning modules will work with any existing Learning Management System

- ✓ **What kind of support is available (e.g., live-chat, e-mail, phone support)?** What are the hours of operation? Is the vendor's help desk located in a different state? Does it have 24-hour support? What is the vendor's guaranteed response time?

And remember...in this economy, you can barter for anything. More and more vendors are including free "value-added" services – services normally considered revenue streams – as an incentive for renewal and/or negotiations for subscription-based products. Why not make value-added services a negotiating point when purchasing a new product? Why not ask the vendor to commit to future value-added time and services as a part of a comprehensive support and training maintenance program? The value-added services will once again regain their full value as a revenue stream once the economy recovers. Negotiating for future value-added services now will not only benefit the firm's bottom line, but will also guarantee risk management strategies and automated workflows are continually supported and maintained even after the blush is off the bloom.

Moving Forward

"Now they [clients] [have] gotten used to getting more for their money, they may not be willing to settle for anything else."

Ashley Milne-Tynte

"Law firms revise recruitment practices"

NPR - Marketplace, September 23, 2009]

Just because the economy is frail and clients are asking for a reduction in fees and expecting the same high level of service, doesn't mean the world is entirely bleak. Under these conditions, a docketing and/or case management solution with automated workflow technology is the most ideal solution for law firms across the country.

The issue then becomes: what type of docket or case management solution will bring the firm the most bang for the buck. Will the firm need to overhaul their network or will process improvements suffice? To keep costs down, many firms are opting for process improvements by selecting docket or case management solutions that automate the case life cycle and effortlessly integrate with existing applications. Firms are also leveraging the current downturn by negotiating long-term vendor support and training agreements that will serve them even when the economy recovers.

The benefits will reach beyond the walls of the firm as staff and attorney efficiency and productivity are enhanced, risk is minimized and costs are reduced...and, as a natural by-product, client servicing and response times remain at their same high levels or improve by leaps and bounds.

So take what you have and make an investment in the "conductor" in order to create a world-class symphony that will thrive regardless of market conditions.

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Mr. Bustan founded American LegalNet (ALN) in 1996. Prior to American LegalNet, he established the highly successful American Runner Attorney Service, a company that served 300 law firms in Southern California. In the process of growing American Runner into a multi-million dollar business, he saw firsthand the market opportunity to create a 'Desktop to Courthouse' application and started providing a national electronic forms database, as well as identifying the tremendous potential of e-filing and e-dockets. Mr. Bustan subsequently sold American Runner to focus fully on ALN. ALN is the premier 'Desktop to Courthouse' Workflow solutions provider, which enhances workflow, minimizes risk and reduces cost.

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Ms. Kim is the Senior Client Relations Manager for American LegalNet (ALN). In this role she has revamped the company's training program including creation of practice-specific guides and acquisition of CLE accreditation in multiple states, and has administered and managed the rollout of ALN's CRM solution. Ms. Kim has been involved in the legal industry for nearly 20 years, having worked for firms such as Irell & Manella; Milbank, Tweed, Hadley & McCloy; Munger Tolles & Olson; Skadden, Arps, Slate, Meagher & Flom (Los Angeles); and as an application consultant for several boutique firms in Southern California. In addition, she is a certified trainer of Fetch Technology, which is an artificial intelligence data aggregation learning system used by public and private sector industries. Ms. Kim received a Bachelor of Arts and Master of Fine Arts from the University of California, San Diego.