

White Paper – Where is Docketing/Calendaring heading to?

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Acknowledgements:

This paper would possible without the ongoing feedback, comments, suggestions, discussions and other communication from court personnel and CourtAlert clients. For over fifteen years, executives of the courts at all ranks have tirelessly expressed their ideas and hopes for the industry. So too, CourtAlert clients have graciously shared suggestions and feedback over the years.

We are also very thankful to the CourtAlert team, which has eagerly and zealously continued to pursue perfection in the materialization these ideas, some of which have become successful throughout the industry.

Background and Purpose:

Needless to say, no one knows the future. But, one can guess. And we hope that this paper will open the door to hearing the visions shared by all of us: law firms, law departments, the courts, and vendors. Those predictions and hopes can help the industry prepare for what the future will bring.

The Job Description: Will the workflow requirements for the industry change?

As long as our system of economy will continue, there will always be large public corporations. They will continue to have disputes and they would want to rely on outside law firms in addition to their law departments. The executives of these large corporations would want to use the same firm that has experience in the issues, has multiple locations, can handle all types of litigation, is itself credit worthy and reputable – in short, clients will continue to seek the services of large law firms.

The legal system will continue to require strict adherence to document-driven deadlines. These documents will continue to be filed on a court docketing system such as PACER, State's Systems, File-and-Serve etc. and be served on the other parties.

In light of the courts' budget and personnel constraints, there is no doubt that the remaining courts which have not yet switched to electronic filing will eventually transition.

Therefore, it stands to reason that members of the industry will continue to be responsible to:

- Review the court record of cases
- File electronically filed documents, and receive them
- Make sure that attorneys do not miss deadlines
- Accommodate Event Driven deadlines (e.g. Trial Date set, triggered future deadlines) with Docket Driven deadlines (e.g. Scheduling Order filed, triggered future deadlines) on the same case
- Make sure that anyone looking for a filed documents can easily access it

- Help show potential clients of the law firm that the firm has experience in that specific area of practice successfully in the past
- Help associates and others in the firm locate good works samples for drafting
- Be the go-to center of knowledge in the firm; the place others look for answers.

Future Prediction 1: Review Court Record of Cases

The information the court keeps on cases may be divided to two general categories:

1. Information filed by the parties, or the court itself, via electronic filing – and for this please follow the discussion later in this paper
2. All other information manually entered by the court: In several State Courts, significant case information is still entered manually by the court personnel. In Federal courts almost no such manual entry exists.

Information not electronically filed, we believe the industry will be notified via an email alert. Vendors, such as CourtAlert, will buy the data from the court and will automatically alert law firms and law department of updates to their cases. This “push” technology is the only practical one: users cannot keep looking at web site and memorize what was changed. User want to know precisely and only what was changed, what it was and what it is now. This is a services invented by CourtAlert and continues to be the most popular way to track new court information in New York and elsewhere. Continued expanded coverage of CourtAlert case tracking is anticipated in the near future.

Future Prediction 2: How Will Users Receive and Handle incoming Electronic Filing Notices?

The wrong approach: Dumping court data or notifications of filed documents directly into the firm case management database is not productive. This automation eliminates the necessary opportunity to review and schedule the deadlines associated with the filing. Without review of the inputted documents, the database is unreliable.

The right approach: The expectation today is that the data be entered quickly, with as little work as possible, but still reviewed by an docketing expert. CourtAlert has developed, and patented, the solution to fit those needs. Most entries of information from electronic filing courts will be handled using the CourtAlert patented Reconciliation feature.

Reconciliation captures the emails from the court which are intercepted by the case management software. The underlying information from the email is prepared for saving (case information, docket text description, PDF attachment, filing date, etc.) Before the information is added to the database, the docketing operator reviews the data, makes changes, inputs relevant deadlines, and saves the data and the PDF in the case management system.

Few keystrokes and prioritization tools ensure that this process takes little time. Reconciliation was first developed to handle thousands of docket entries quickly, while allowing the operator to input relevant information and deadlines.

With this feature, the PDFs are automatically downloaded using the “first free look” and made available to anyone (not conflicted out) in the firm to view the PDF in multiple access points. By promoting the firm’s version of the PDF, received free from the court, Reconciliation saves law firms significant cost otherwise incurred by retrieving PDFs from PACER multiple times.

For detailed information on Reconciliation and how it has revolutionized the handling of incoming court electronic notifications, please see US Patent 8,996,590.

Future Prediction 3: Attorney Initiated Docketing

The courts have moved most of the docketing requirements to the parties (the law firms). Law firms may consider the same logic and pass *part* of the docketing responsibilities onto the attorneys.

In this vision attorneys are provided with a user friendly tablet application that allows them to enter the docketing information, and further, allows them to use the device camera to take picture of the documents to attach to the docket.

CourtAlert has already developed and implemented this solution at a major law organization. While many law firms may be initially hesitant, it is important to note that the docketing experts have an opportunity to improve the information entered by the attorneys. It is prudent to avoid automatic incorporation attorney created dockets into the database before a docketing expert reviews them. With the CourtAlert solution, currently used “live” at some clients’ locations, the data entered by an attorney does not go straight into the database. Instead, it gets put into reconciliation and waits for a docketing expert to review, edit, approve and save the docket.

If something is wrong with the docket, the attorney and docketing expert can communicate and clarify. But if the tablet application is correctly designed the number of errors will be limited. One major benefit to this paradigm is that the heavy burden of docketing will be alleviated by mitigating part of the work onto the attorneys, thereby saving significant time and cost to the docketing process.

We know it works: CourtAlert app is used to enter dockets, take pictures of documents (not ideal quality but they are automatically converted to non-editable PDF files). The information is immediately transferred to the main docketing location. Reconciliation experts review the information, add deadlines, re-scan if needed, and put the information into the system access able to all authorized in the firm. Most courts have Wi-Fi and allow attorneys to user tablets in or near the courtrooms.

Another significant benefit of having a portable docketing app is that the attorneys out of the office can look-up any of the firm’s cases, see dockets, deadlines and, most excitingly, the PDFs. The days of carrying loads of paper boxes to court will be a thing of the past.

Future Prediction 4: Internal Portal for Attorneys in the firm and for Clients to Transfer Documents and Requests to Law Firms

A portal can be used inside the firm to have attorneys, paralegal and other, make requests or transfer information to the docketing department.

In addition, while nothing will ever replace the personal touch: Jim the Partner that knows Harry the VP of the Client but for ongoing communication with clients, post engagement letter, the transfer of information via a Portal is the answer.

Clients and internal staff will communicate to law firms via the law firm's Portal. A dedicated web site, highly confidential and reliable, allows the client to submit documents, requests (with their attachments of whatever computer file format), and requirements.

The critical element of this portal is that the incoming requests get sent straight to Reconciliation. Once a request is received into reconciliation the law firm staff can determine who in the firm will receive it and how it should be handled.

The benefit of this system is that client requests are no longer 'somewhere in the attorney's Outlook' and can be managed and handled more efficiently than ever before.

Future Prediction 5: Verifying Attorneys Don't Miss a Deadlines

There are two aspects of deadline management: how to calculate the deadlines and how (and how often) to communicate them to the attorneys. Too few deadline reminders, and the attorney may forget. Too many and the docketing staff becomes an annoyance.

Reliably Calculating Deadlines, using real time rules: There are a number of automatic rules vendors, some are larger, famous and probably more reliable and some are more economical. CourtAlert integrated with two such vendors: CompuLaw and CalendarRules. Real time rule updates means that deadlines are applied from the rules real time, directly from the rules vendor. This is sometimes called API (Application Programming Interface). This technology eliminates the problem of law firms having to update the rules sets on their own computer servers.

As soon as a rule is changed (any rule change, nationwide) the rule is automatically updated and the deadlines calculated are done with the new rule implemented.

For example, on a Tuesday afternoon the Kansas State court changes the number of days allowed to file an appeal from 30 days to 45 days. If a deadline is calculated on Wednesday morning using the automatic rules, the system will calculate the 45 days at the last day to file the appeal. This new rule was used to calculate the deadline without the firm having to update the rule sets manually.

All automatic rule solutions are based on the codification of the law and regulations and therefore a deadline is proposed for all permutations (e.g. Service by Fax). An expert is still needed to weed out the irrelevant deadlines: The system should be able to default the deselection of some deadlines by court, case and for an individual event so less work is required by the docketing staff.

The second part is more challenging: how do we make sure that the attorneys comply with the deadlines. The probable answer is it will never be 100%. CourtAlert Case Management, for example, offers four different methods of communication (including the automatic removal of adjourned events). Some of these reminder systems may be considered harassment. Our clients have preferred the CourtAlert solution of determining on a user by user basis, and a case by case basis, who to notify about deadlines and how often to notify them.

Of course automatic sync with Outlook calendars is a critical component as well, but that sync must be sophisticated enough to remove adjourned entries. The user need only see the last entry (with a detailed “trail” listing prior adjournments, and counting the total number of days adjourned.

Future Prediction 6: Allow Event Driven event calendaring (California Style) with Docket Driven Calendaring (New York Style) on the Same Case

There are clear distinctions in the way docketing is handled in east and the west parts of the country .

The type of the information recorded is also location centric: In the West Coast, as in many areas in the country, docketing mainly means the entry of Events. The user enters an event and (typically automatically) the deadlines are calculated. Only occasionally would a user connect a docket to a PDF. The main purpose of this type of entry is calendaring and deadlines. In those scenarios, the computer system creates the docket text automatically (and we should be able to modify it).

For example, if a trial date is set in an Order. The user enters the trial date and the system automatically calculates the future deadlines. Thereafter, the system then creates a docket “Trial Date Set” and perhaps a PDF of the underlying order is attached.

In New York, On the other hand, a docket is first, before the deadlines are calculated. The user enters a docket, attaches the PDF, and thereafter calculates and enters the relevant deadlines. The docketing department is chartered to keep the docket sheet, essential an official history of the case, and copies of documents served on or by the firm.

In CourtAlert we believe the computer programs should accommodate the workflow preferred by the user, and not vice versa. Meaning, users should not have to change their preferred workflow to accommodate software. Certainly on the issue of docketing and calendaring, CourtAlert was designed specifically to allow users to enter information about a case in either style.

And likewise, the output should be in either style. Viewing a case history or Docket Sheet may sometimes be preferred. Other time, viewing a case by deadlines is preferred. Whatever the preference, CourtAlert was designed to accommodate either. This last part is relatively easy in the era of HTML (internal web site), links and report writers that allow users to design their own reports.

Future Prediction 8: To Cloud or Not To Cloud?

Often potential clients want to see a firm wide collection of talent available from the firm.

Unfortunately, many firms’ databases are scattered across several offices, computers and systems. For example, if a case is handled by three offices, Washington and New York and California, where does the information about the case reside? The best solution is in one place, accessible from all locations. This we submit, will be the only way law firms will operate in the future.

The natural instinct is to put the data in the “cloud”, a secured data server somewhere, no one knows where. Those who have used cloud based applications love it, the data is accessible easily from anywhere, no hardware and software to maintain, not IT headaches. However, the financial industry had decreed that the data may not be residing in a cloud.

Justified or not, the ruling of the financial industry is unambiguous and as long as banks, investment firms etc. are significant part of the law firm, or if the law firm even wants to serve them, cloud based solutions are out.

It is the perception of data security liability that killed the cloud. The case management system will be install on old-fashion hardware and software servers at the law firm/law department.

Future Prediction 9: Easily of Finding Documents Firm-wide

The vision here is simple and the tools to achieve it are available today. All the available firm information about any given case should be organized and accessible with the following information available

- Case Header
- Docket entries
- Underlying PDF files attach to dockets (and attachments of any other format)
- Future deadlines

This information should be available by user friendly searches and inquiries, Excel type analytical displays (trickier), “push technology” emails, and of course printed reports. All search solutions are designed for and work on computers, but also on smart phones, tables etc.

Also essential to the vision: Docketing is not an island. We must share information with the firm’s Intranet, Document Management systems (especially if they are Matter Centric), Accounting, Management analysis, Conflict system, Personnel system etc. etc. All of course without user input. This is a discussion by itself as is specific to the system being interfaced with.

Future Prediction 10: Easily Access Relevant Types of Cases to Show Potential Clients Similar Services Provided by the Firm

Docketing departments will eventually be measured internally as profit center for the firm. To stay relevant, the department needs to be valued by the partners that pay for the department, its staff and resources. One very attractive way to emphasize the value of a docketing department is by helping bring in new business.

This Future prediction is essential just predicting that docketing department will start to maximize the option of looking for information that they put a lot of valuable time entering into the system. The docketing department is in a unique marketing position because it has knowledge of all the firms cases, case histories and categories of cases that the firm has been involved with. Categorization of cases goes well beyond the Nature of Suit. Cases can be classified in multiple levels to allow th department to easily search for relevant cases.

Taking case search a step further, the system has a friendly set of printed and interactive inquiries that the lawyer and the docketing team can operated combining the selection of cases by classification with, for example, a specified word on any of the cases docket entry case, or even any PDF stored in the case management system.

The key is a standard classification system. So for example users can search multiple levels of data, such as Intellectual Property + Motion to Compel Discovery + Judge Goodman + Texas.

Future 11: Help Associates and Others Locate Good Sample of Work to Use as a Drafting Reference

This is referred to as Knowledge Management (“KM”). And it is high time we bring KM home, to Docketing. Available in the data is every that was filed in every case firm wide. The name of the author is also available for the documents created by the firm.

The only work remaining is for someone qualified to determine which documents are good enough to serve as an example (based on the achieved results, the reputation of the author etc.). There are tools that can help and the investment pays off when a young and less experienced associate is able to produce top quality draft emulating the work produced by a more experienced senior attorney.

Future 12: Docketing and Calendaring Departments will be the Go-To Center of Knowledge in the firm

We don’t necessarily need to be available all the time for questions, but our data and system should allow the user to figure much of the information independently. This way, our phone will ring less and we can empower firm members to access department information easily.

One example is changes in rules: A good automatic rules vendor will advise us if a rule was changed and that rule was used on our cases. It will specify which cases and any changes to the deadline. Many vendors provide information on changes in policies and workflow routines at court. A good future docketing system will include analytical, Excel type (specifically Pivotal Tables) type real-time inquiries.

Summary:

In this paper we tried to list the vision of the future as emerges from discussions with law firms, law department, court personnel and our own team. It is work in progress, and progress will be made if you will please provide feedback and thought.

Please also tell us if we may use your name in future publications.

About CourtAlert

CourtAlert is the market leader for providing court data to large law firms and legal organizations in New York and across the country. We offer a variety of services to meet the needs of our clients including Case Tracking, Premier Docketing Software, Business Development Tools, Research capabilities and much more. CourtAlert is committed to ongoing development and frequently announces enhancements and new services.

CourtAlert has introduced many original services. The first of which was Case Tracking; CourtAlert was the first to develop alert service directly from the court computers in 1999. Most recently CourtAlert offers a unique, US Patented, method to integrate emails from electronically filing courts with the local CourtAlert case management.

CourtAlert is dedicated to its corporate promise “We are Committed to Remain the Best”. CourtAlert continues to imagine the possibilities of future, to try to envision how our industry will look in the year 2020 and beyond, and to take the first steps to realizing the future - and that is the purpose of this paper.

As a business partner, CourtAlert values the feedback, comments, suggestions, discussions and other communication from court and client personnel. Please share with us your thoughts.

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