

Court Data and Case Management – observations and discussion on the official court record

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CourtAlert®

“Two attorneys stand before a judge, the judge says: we will adjourn to next Tuesday, the first attorney heard “next Tuesday” and second attorney heard “next Tuesday” but the Part clerk keyed next Wednesday into his computer terminal – which day will hold?”

The obvious answer, next Wednesday. It does not matter what the attorney tells you, it does not matter what you heard, the court record governs, only the court data controls the Judge’s calendar.

This is just one example why the official court record must be part of your case management workflow.

In this paper we will discuss various sources for official court data and will investigate different court computer systems and workflow nationwide. We conclude with suggestions on how to include court data automatically or manually in your case management and calendaring systems.

Definitions and descriptions (just to make sure we all mean the same things)

Court Data – that portion of the court computer database that is available to the public by direct access. This includes a court’s web site or emailed notices/confirmations from electronic filing notices. It also includes data pushed to you by email or directly into your docketing system by vendors. It is best to use vendors that have expertise in the courts and the alerts are more meaningful. For example, some details on

Mental Hygiene cases and Matrimonial cases typically not available to the public. In New York, certain decisions are available to vendors before they are online.

Case Tracking – A service that emails you once the court data on cases you list on a “watch list” have been changed. The more quality services will also explain what the change means for your case.

Case Management – A computer system installed at the law firm/law department, or available to it via a “cloud”, which is used to record documents, actions and deadlines on the firm/law department cases. “Calendaring” solutions refer to date/deadline centric systems popular with west-coast style data entry. “Docketing” refers to docket / document centric systems a la PACER and NY based system.

Good case management includes both “Calendaring” and “Docketing” features.

Reconciliation – Is the automatic process that pulls in data from court and other external sources and integrates them with your case data. The process should allow for user quality control.

The Goal

The number one source of a malpractice suit is for missing a deadline or a hearing. The calendar is very important!

Dates refers to deadlines and court appearances and other pre-trial dates. Some are spelled out, other are rule-mandated deadlines and yet other dates are mandated by firm’s policy.

All case management systems offer, at minimum, a repository for dates. Our mission is clear – inform the case team of the dates and show the reasoning behind them.

Publishing Deadlines to the Lawyers

Dates are published in several mechanisms. Each interface has its pros and cons. Decide on a format that will get your calendar read!

Often, firms choose to publish dates to Outlook or similar system. Everyone relies on their calendar, so it only makes sense to put your official dates there too. Outlook provides a familiar interface and is always available to the attorney remotely. Ensure your case management system supports the automatic removal of adjourned or canceled appearances.

A possible downside of this approach is that some attorneys like to keep their own calculated deadlines in outlook. They are, after all, ultimately responsible for their calendar. If this is the case then they will not like to see your official version as well. If this is the case, or if your system does not integrate with Outlook, use printed and emailed calendar reports.

Sources of information for Case Management systems

The purpose of a Case Management system, and the docketing / calendaring department in general is to reduce the risk of costly mistake of missing a critical deadline or appearance. Our departments provide a double check for date calculations, a second set of eyes on court documents and advice for which rules might be applicable for date calculations.

To make sure your dates are trusted we need to include as much backup and corroboration as possible. To do this, we rely on multiple sources of information that provide corroboration for any dates.

1. Official Documents – those filed at the court (using the latest, filed, version of the them) and perhaps other documents. Most documents in the case management system come from notice emails (“NEF”) from courts or from documents manually served upon or served by the firm
2. Deadlines and appearances data from the courts – Sometimes these dates are provided in a document, but often the information is

provided from a vendor or the court website. This includes official court calendars, Court Calls, and appearance information.

Getting the Court Documents

Cases you are on

In the electronic filing world, the court will automatically email the parties on a case a structured email which will summarize what was filed (the docket text) and will include the PDF of the filed documents. The same information is typically available at a dedicated court web site.

In the Federal cases world, PACER, the first view of these documents is for free but subsequent views require a fee.

Many case management system offer an automated or a semi-automated method to retrieve the PACER docket text as a base for the case management docket text and to retrieve the PDF files and include them in the Case Management system. Some vendors have patented their technology.

“Reconciliation” automatically retrieves the email from PACER, uses the text as base for a docket and the PDF is shared within the organization (saving on PACER cost). Good reconciliation systems would work not just with the Federal courts then also with:

- State court systems that have electronic filing (NY, NJ and many others that use File & Serve)
- Portal system that are used to communicate with the firm clients and co-counsel
- Mail system that are used to record incoming mail
- Tablet system used by attorneys at the court and elsewhere

If your case management system doesn't support saving PDFs directly you should save

your PDFs in your firm's Document Management System or a shared folder. Record the "path" to this in your calendar or docket entries.

When you save the PDF use a clear naming convention, consider including the case name, document type, PACER Docket Sequence Number and date filed. When your attorneys download the document, they will use this as their primary method of organizing their binders.

Cases you are not on

Often your firm takes on a case that is already in the midst of litigation, but you have not yet filed an appearance. These cases require you to monitor for new dockets and being aware of any deadlines, but you are not receiving any notices from the court. Use a monitoring service to get notified on new filings from services that electronically monitor PACER for changed and new dockets. There are various case tracking services offered for State systems, also here chose a vendor that is timely, accurate and concise. You should also use such services to monitor cases of interest.

Some courts allow firms that are not participating in the case (that did not file a Notice of Appearance) to receive email notification from listed cases. Typically, these do not come with free access to PDFs.

Other Court Data and cases that are not filed electronically

The best form of corroboration is a court-stamped document that includes the dates and events that trigger deadlines. What should you do when this information is not available, like when the case is not electronically filed or the court does not provide access to documents? In this cases you should look for published court calendars that contain hearings and often other deadlines such as motion return dates. This is where case tracking subscriptions come to the rescue. Calendars published by the court are often difficult to read and very hard to search

through. Case tracking subscriptions often monitor your cases and provide only the relevant dates to you in a clear format. Information that is rekeyed by vendors and the information published by the court itself is frequently inaccurate. Firms rely on services that buy the data from the court, process it with reliable and proven computer program, and the vendor are intimately familiar with the court workflow. One cannot stress this point enough, if you do not have the best case tracking service at your disposal, register to several services and compare the notices.

Court data is not all the dates you need in the system, you should have:

- Deadlines – either calculated automatically by a rules vendor or manually calculated. Be sure to include rule citations in your calendar entries.
- Non-court appearances such as depositions – these are typically entered by hand.

Where do documents reside?

Documents may be stored in the firm "file system", it's "common drive" accessible to all workstation or in a document management system such as FileSite (iManage) NetDocs and others. Document Management systems are also used to store other paperwork associated with the case: the discovered documents, work in progress documents etc. Best is to combine the world of Case Management and Document Management.

For example, the case management system could offer an elegant interface with various document management systems.

The lawyers, who typically use the document management system, are used to think in terms of Client/Matter, "the deal", while docketing personnel thinks in term of court cases (index numbers), and there could be several court cases

for the same client/matter (trial and appeal cases for the same matter, related cases, etc.).

Attorney may like see a “Official Court Record” subfolder inside the Matter centric document management with the latest, filed cases.

For firms that have not implemented a computerized solution, one would suggest that you manually put the filed documents at a subfolder within the matter folder in the document management. This can be quite an exercise and needs to be kept up as new documents reach the system. The effort is not trivial, the document management system should be set up with a folder within in matter for filed documents, and the document copied into it. Thereafter (and after testing/verification and backup please) the original documents in the firm-wide shared-folder are to be deleted and replaced with a link to the document in the document management system.

Or, if you are lucky, all this can be taken care of by your case management solution.

Summary

A risk conscious firm Calendar with corroborating source documents (“Docketing”) and provide Rule Computations. Provide multiple output formats to reduce the risk of ignored dates notices.

Pull the documents and calendars on your own, or rely on your case management system (if you can) to pull it all for you. Without an integrated method of retrieving information from the courts is like a car without gasoline, you will have to push it alone. Make sure you are corroborating with official court data when publishing dates.

About the authors

CourtAlert® is a case tracking and case management vendor. CourtAlert is located online at www.CourtAlert.com or physically near Times Square, New York City. CourtAlert is always eager to hear from you and any answer any questions. We look forward to hearing from you.

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