

Case Management: Why Doesn't Every Law Firm Use It?

Criteria for Use, Success and Failure

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Executive Summary

Legal case management software programs have been around since the early 1980s. In the years since then, thousands of law firms and other legal offices have purchased a variety of case management systems with expectations of improving information sharing among staff, increasing work process efficiencies and providing better client service. Success stories which demonstrate the benefits of implementing case management are widely available and well documented.

Still, for some law offices, using a case management system is something they have either investigated (and rejected) or have never even considered. While virtually every firm claims to be a technology leader these days, what is it about case management that, for some, falls short of its promise? Have the experiences of those who tried and failed caused others to be cautious? Or are there other concerns that stand in the way of case management's acceptance?

This white paper explores the reasons some law offices have yet to adopt case management systems despite overwhelmingly positive and obvious results experienced by other firms. Additionally, the paper will examine the criteria for a successful case management implementation, pointing out the common pitfalls that can hamper the roll out of case management or any technology system.

Case Management Defined

When people talk about legal case management, they may also use the terms matter management or practice management. These are simply three different definitions for the same thing: a firm-wide, office-wide, inter-departmental and intra-departmental system to easily create, track, store and review:

- Case information of any kind
- Contacts and involved parties
- Documents and mail
- E-mail
- Notes and phone calls
- Appointments, tasks and deadlines
- Time, billing and expenses
- Research and other work product
- Reports and other metrics

In many ways, case management can be compared to some customizable knowledge management systems, but with the added advantage of having some structure already built in (e.g., ways to show which contacts have been involved in which cases), established links to other popular programs and a relational database for easy reporting.

For purposes of this paper, case management is not meant to describe programs like Summation or CaseMap, which are handy tools for trial preparation or storing information on a single case. True case management, as most commonly defined, provides a centralized repository of all a firm's cases. In effect, case management creates an electronic equivalent of the paper (or physical) file and provides firm management and staff both quick access to case-level details and a big-picture perspective on trends, caseloads and other productivity metrics.

Is There An Incentive To Be Efficient?

The early adopters of case management systems were those law firms that billed on contingency or flat fees. They clearly understood that automating routine tasks and being more organized would allow them to handle more cases in less time, and in some situations, with fewer staff. These efficiencies quickly translated into a more profitable practice.

Interestingly, and perhaps unexpectedly, these case management pioneers also experienced side benefits beyond an improved the bottom line. As it turns out, case management programs are equally effective as client and staff management systems.

For instance, quicker access to case-related information, knowing a case's status in a matter of seconds, the ability to review correspondence history at a glance, and being able to recount details of the last contact any staff member has had with the client makes one appear very well informed. Clients think the attorney (or any staff member) has their file open right there every time they call, while in reality the physical file is in a cabinet or drawer somewhere. As a result, each interaction with the firm strengthens the client relationship and reaffirms the client's decision to choose the firm in the first place.

Further, many firms use the workflow features of a case management system to develop and document accepted or preferred ways of handling certain matters or issues, including precedents. These guidelines may be the same for the entire firm, but more often will vary from one practice group to another. Using a case management system as an integral part of a new hire's on-boarding experience provides an ideal and consistent framework for training new associates, paralegals and support staff. Likewise, case management workflow preserves and shares the vast and valuable knowledge base the firm has accumulated over the years. This is especially vital as lawyers leave the firm.

In the face of competitive pressures, law firms may espouse the virtues of improving efficiencies, yet do nothing to change the status quo. Some firms adhere to an "If it ain't broke, don't get case management" philosophy. And if the firm generates the majority of its revenue from hourly billed fees, where is the incentive to do a task more quickly?

The answer begins and ends with the client. Today's more tech-savvy clients know law firms have access to process-improvement systems like case management. Consequently, they expect and demand efficiencies. The point is delivering better client service is how law firms will attract and retain clients. Continuing to operate under a "business as usual" approach is not an option.

ROI Difficult To Quantify

Law firm partners and managers will likely agree that whatever the firm can do to improve client service ultimately makes sense for the firm's bottom line. Yet, they will argue that an investment in case management is not worth the return, especially in the short term. Such thinking may be shortsighted, but it is not without precedent.

History is full of examples where a change which ultimately provided quantum productivity advances initially provided few short-term results. For example, look at word processing. One would be hard pressed to find anyone today who doesn't think that word processing software provides a huge improvement over the typewriter. But 20 years ago, a seasoned typist was easily far more productive than someone just learning all the keyboard commands which word processing required. Thankfully, most businesses could see the long-term benefits that word processing would ultimately deliver.

Likewise, case management is not a one-time deployment that will perfectly align everyone and every process overnight. Done properly, case management creates a framework for the entire firm to operate as a more cohesive and consistent organization. And over time, the system will mature to become an indispensable tool for partners, associates and staff in their daily work. Therefore, the ROI for case management can be measured according to the following short-term and long-term benefits:

Short-term benefits:

- Providing access to all matter-related information and communications in a central location from a single interface.
- Knowing at a glance which matters individuals (i.e., opposing counsel, judges, witnesses, etc.) have been involved in and the current status of those matters.
- Improving client satisfaction by providing more timely and substantive communications.
- Simplifying the conflict checking process.
- Saving time searching for documents and other information.
- Capturing more billable time.
- Automating the new matter intake process.
- Alerting attorneys and staff when a new file has been assigned to them.
- Creating customized workflows for each practice area.
- Automatically populating documents with key matter information.

Long-term benefits:

- Getting new employees up to speed more quickly.
- Protecting firm assets and institutional knowledge.
- Providing firm management with productivity metrics.
- Attracting and retaining the most desirable new clients and staff based the firm's reputation for outstanding client service.

Just as investing in a 401(k) is a long-term strategy for a secure retirement, investing in case management is an investment in a law firm's future health. And just because an endeavor doesn't immediately yield 100 percent of its results, it doesn't mean that it isn't worth doing. The most beneficial aspects of case management only improve with time.

Earliest Versions Lacked Sophistication

As often happens with new product innovation, the initial incarnations can be a little rough around the edges. And the first case management systems experienced the same growing pains when introduced more than 20 years ago. The matter-centric concept was sound, but those early programs lacked the polish and reliability of today's more sophisticated systems. Thankfully, the overall legal technology landscape has significantly improved since then, most notably with the advent of browser-based applications.

While most case management roll outs were successful, some firms attempting to use these "under construction" systems experienced frustration, increased costs and productivity losses—just the opposite of the benefits case management promised. Additionally, several early case management software applications were designed by and around the needs of the solo practitioner. As a result, these programs lacked scalability, which caused them to fail miserably when implemented in larger offices.

Word of deployments gone awry quickly spread and acted as a warning to other firms to not become another case management casualty. In fact, sales of case management programs were virtually nonexistent in the mid-1990s. This likely resulted from the combination of the product category's tarnished image and the legal profession's slow migration from DOS to Windows platforms, which delayed many other technology purchases, as well.

The fall-out from those not-ready-for-prime-time programs lingers today, even though case management systems have been used successfully at thousands of law firms and relied upon by tens of thousands of law office staff. This is not to say that all current case management programs are created equal. Today, most technology analysts consider legal case management a mature market, offering stable, full-featured products which are much improved over earlier versions.

Beyond the increasing numbers of case management users, another indication of the segment's vitality is the reduction of the number of systems available. At one time, there were as many as 50 different case management programs from which to choose. That's simply too many for the category's potential capacity. In the end, consumer preferences dictate product winners. And normal survival-of-the-fittest market cycles have led to consolidation in the case management field. As result, the less-able, weaker products have gone away, and the better programs have remained.

And while product consolidation is ultimately a positive occurrence, it has also negatively affected some law firms' view of case management, for two main reasons:

- As products fail and companies go out of business, law firms grow concerned about any vendor's financial strength and its ongoing ability to support the product. This perception should be eased now that it's a mature market with stable players.
- When case management vendors are bought by larger companies, it can shift the focus away from the case management program's future development as it becomes just one of the new owner's product offerings.

Five Not-So-Easy Pieces

When law firms do recognize the value of better organizing their businesses, they often make an attempt to gather critical information together using a variety of systems. In doing so, they create a sort of software smorgasbord, which typically includes the following five pieces:

1. E-mail, Calendar, Tasks and Contacts
2. Document Management and Document Assembly
3. Client/Matter Database
4. Time and Expense Tracking
5. Workflow and Deadlines

Examining the components individually will help assess the value and function each application provides.

E-mail, Calendar, Tasks and Contacts. Sometimes known as “collaboration” software, Outlook, GroupWise and Lotus Notes dominate this category. Whichever platform is chosen, it creates the foundation for the firm’s communication infrastructure. It’s an essential law office component. However, these products by themselves lack a matter-centric view of critical information and activities. Some firms attempt to overcome gap this by using case-specific public folders and global contacts. This approach falls short because all the elements cannot be cross-referenced, leaving no method for viewing all case-related items in a single view. As a result, it is virtually impossible to do a firm-wide conflict check, and firms sometimes end up purchasing a third-party add-on application just for conflict checking. Likewise, programs like Outlook do not provide a chronological view of all activities and communications for a single case. Instead, it makes more sense for firms to integrate Outlook, GroupWise or Notes with a case management system which already has the file/case structure in place. By simply linking contacts/parties and other information to matters, the firm has a built-in, office-wide conflict checking system and a complete case “diary” accessible to all staff working on a matter. Be sure to look for a case management system that seamlessly integrates or synchronizes with these programs to avoid duplicate data entry.

Document Management and Document Assembly. Law firms know that keeping careful track of documents—both sent and received—is vital to their business operations. Therefore, it’s undoubtedly a good idea to use a document management system for greater organization, search tools and security controls, which make it easier to collect research, find work product and protect a firm’s intellectual capital. Additionally, document assembly is a tremendous timesaver for creating documents and forms using fill-in or merge fields. Using these two functions will certainly increase a firm’s productivity. That’s why the more robust case management programs also include document management and document assembly features, with the added benefit of collecting and storing the client/matter information to more easily populate the required document profile or merge data into boilerplate documents.

Client/Matter Database. Law firms often find that they need to track more information about their clients and cases than what programs like Outlook and a standalone document management system can provide. Consequently, they turn to a variety of spreadsheets and databases, such as Excel and Access for their ease of use, or a home-grown system for handling more complex issues. This approach is well intended, but when different solutions are selected or custom developed to meet the needs of specific departments or practice groups, the end result is likely scattered pockets of software and knowledge. Throw a CRM or some type of marketing software into the mix, and the resulting environment is anything but unified, which makes conflict checking, staff training and tech support a nightmare.

Time and Expense Tracking. Legal accounting and billing programs are mission-critical back-end systems which law firms rely upon to run their businesses. They are another essential law office application. The amount of billable time recorded can be improved, however, by shifting the time capture component to a case management system which more easily tracks case-related activities (i.e., phone calls, e-mails, document preparation, etc.), then automatically sends the information back to the billing program. In the same manner, case management programs can simplify expense tracking for a wide range of activities and costs.

Workflow and Deadlines. Whether through a checklist of critical items to be performed or calendar of court-based rules, a firm's workflow system is a valuable component to assure that relevant client and case activities are completed on time by the right person. Any number of off-the-shelf business project management software programs or specialized legal applications can be purchased to handle these tasks and deadlines. The key to making workflow systems work, just as with improved time tracking, is to "push" the workflow process directly to the user through an application, like case management, which is integrated with the staff member's daily activities (e-mail, document creation, correspondence tracking, scheduling, etc.).

Law firms believe that purchasing these five components as separate pieces will give them more choice and control to create a customized best-of-breed system, and perhaps save money by only paying for what they need at the time. However, more often, this approach results in a decentralized, non-secure, non-backed up, technology environment. And firms frequently end up spending more than they had budgeted for license fees, on top of considerable sums spent to integrate these disparate systems.

Another approach to consider involves taking a step back to look at the firm's information needs from a strategic perspective. Rather than having multiple user interfaces, multiple program license fees, multiple points of data entry and multiple conflict search systems, a firm could implement a highly flexible case management program as an end-to-end system which includes all these components and acts as the hub of information for all practice groups. If a firm currently has some information management pieces in place, a case management system, with its established links to those programs, can be used to connect the dots as well as save money and time on custom programming. Either approach is a more cost-effective alternative to adapting several separate pieces to copy the functions a case management system already provides.

You Need A Hero

Without a hero, meaning an advocate at a firm's management or partner level, any case management implementation is likely to crash and burn, if it ever gets off the ground in the first place.

In his article, *Did You Buy the Wrong Case Management System Software?*, Andrew Z. Adkins III, the director of the Legal Technology Institute at the University of Florida Levin College of Law, asks: Who within the firm is in charge of the project? Do you have an internal project manager or did you leave the project management entirely up to the developer? If you're using an internal project manager, is it someone who has the knowledge of implementation, the respect of the firm, and the time to do it right?

Based on his years of experience studying legal technology systems, Adkins has documented that, if a law firm wants the case management implementation to succeed, it needs someone to take ownership of the project. A cheerleader. A champion. A salesperson.

Expecting a junior-level associate or legal assistant to drive the process is shortsighted. They may be tech-savvy and interested in the topic, but they lack the necessary clout to get buy-in from senior management. Staff members with knowledge, energy and enthusiasm are valuable assets. Put them to use on the project team. Just don't put them in charge.

The person in the lead role must have the authority and influence to assure that the project gets the attention it deserves, which includes performing a thorough needs assessment, making an informed vendor selection and assembling a team to promote to the program and its benefits to internal audiences.

Conclusion

When properly implemented, legal case management systems deliver significant productivity and client service benefits. However, many law firms are not compelled to more efficiently leverage their human and technological resources, or they find it hard to measure the short-term financial payback on a long-term investment. Other firms still think of case management as an immature solution and don't acknowledge the sophistication and success of contemporary systems. Or some create their own patchwork of separate, unrelated programs in an effort to emulate the comprehensive features case management provides. Finally, and perhaps most importantly, many lack that senior-level "take charge" person who will assume ownership of the project and help both management and staff embrace the new system.

Historically, law firms have played a "wait and see" game with breakthrough technology and over-scrutinized the cost recovery of such investments to the point of inaction. That's no longer an option. The pressures of today's increasingly competitive environment dictate that law firms view case management as an essential Enterprise Resource Planning (ERP) system, which integrates all the business' important information and processes.

This ability to unify and manage client and matter information makes it possible for a law firm to more effectively run its business. Ultimately, case management enables a law firm to build its practice by having the resources in place to successfully attract and retain the most desirable clients.