JTC Resource Bulletin

Making the Case for Judicial Tools

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Executive Summary

Despite monumental success in automating case management processes for court clerks, court systems fall short in meeting the case processing, judicial decision making, and management needs specific to trial court judges on the bench and in chambers. Recognizing this gap, the Joint Technology Committee (JTC) appointed a Judicial Tools Working Group in December 2013 to research and document those technology and judicial case management needs. With the appropriate tools, technology should assist judges in performing their duties, as well as improve the operational efficiency of the court and the quality of service to patrons of the justice system.

This paper introduces the concept of *Judicial Case Flow Management* (JCFM) for the purpose of shaping future discussions on the development of technology and the needs of the court from a judicial perspective. *Case flow management* is a term that generally refers to the overall process of moving cases from the point of filing to disposition, and is a continuum of administrative management processes that include collaborative actions on behalf of the judge and clerk within an electronic case records system. *Judicial case flow management,* considered more broadly as *process management,* advocates capturing operational-level workflows in the system planning stage in order to provide tools that integrate key information judges need from both official and unofficial sources.

To meet judicial needs while improving the business capabilities and processes of trial court judges on the bench and in chambers, this paper identifies considerations and makes recommendations for creating configurable tools. To develop those tools, all judicial business processes and requirements must be properly mapped, documented, and incorporated into a request for proposal (if one is being developed) or for implementation of an e-filing or electronic case management system that includes judicial tools. A single solution for all courts is not feasible, as every court's culture and resources are different.

Regardless of whether judicial tools are developed in-house or purchased as an off-the-shelf solution, the project planning stage is critical. A project plan and methodology should include a governance structure for the project, and define the process for gathering and documenting the business processes and business requirements of judges. The plan should also anticipate the different needs and varying degrees of technical skill among judges.

While technology resources should manage the technical aspects of a project, judges must play a key role in the decision-making framework to ensure tools are designed to meet their needs on the bench and in chambers. Therefore, judges must be engaged as

stakeholders and decision makers. While this will require a time commitment for judges, judicial participation is critical to implementing judicial tools that will meet their needs and assist in the resolution of cases in any trial court.

Moving cases to disposition in high-volume courts (e.g., traffic dockets, arraignment dockets, etc.) is a courtroom-centric activity. The process of proactively managing single event cases is best served by judges and judicial staff having pre-court real-time access to records and the ability to access records from external sources such as probation offices, departments of motor vehicles, and other administrative agencies. Dispositions in high–volume proceedings are typically documented by entry of form orders or handwritten notes on a docket or calendar. This paper recommends tools to easily create forms that integrate free text and auto populated text, or point and click/drag and drop data as ideal tools for such environments. Tools supporting e-signatures, batch filing and scheduling, and bulk entry of dispositions are likewise critical as courts move from paper forms to digital records in high volume courts.

At the other end of the case-processing spectrum are those cases that require multiple hearings, filings and court contacts over time. Because multi-event cases are largely driven by strategic decisions of the parties, the judicial management function requires developing and executing a strategy for moving the case to an appropriate resolution in a timely fashion without unduly limiting the parties' freedom to fully litigate issues that arise. Judicial decision making in these types of cases is information driven.

Trial court judges and their direct support staff represent the operational level of the justice system, the levels at which decisions are made about how cases will progress over time. In multi-event cases, the process management decisions that move cases through the court system to resolution require consideration of both the official court record and the unstructured information that is routinely filtered to judges through conferences, phone calls, and staff communications. This suggests the need for operational or chambers-level information management tools and workflow applications to integrate all the information sources upon which judges rely.

The section "Judicial Tools Business Capabilities & Technology" introduces the concept of "business capabilities" for the judiciary and then maps those capabilities to technology tools and features useful to judges and staff. It discusses in detail how tools and features can be presented in a way that does not assume how those features will be implemented.

All judges, regardless of jurisdiction, have common needs for information but may prefer to view that information in a particular format. If the end user can make dynamic changes in how case information is viewed or displayed without involving a software

engineer, the tool is considered to be configurable. Configurable tools allow for individual preferences, as well as changes to business processes over time.

The work of a judge is more than presiding in court and signing orders. Judges and staff are knowledge workers. They have technology needs comparable to others in the information age. The concept of judicial function and judicial case management should reflect that reality. Technology planning focused only on tools to capture and support official judicial actions fails to address the need for tools to facilitate the work done by judges to reach the point where an official action can be taken. This development has the potential of greatly enhancing the operational efficiency of the judiciary.

Acknowledgments

Joint Technology Committee:

COSCA Appointments

David Slayton (Co-Chair)
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Laurie Dudgeon
Kentucky Administrative Office of the Courts

Gerald A. Marroney
Colorado Administrative Office of the Courts

Robin Sweet
Nevada Administrative Office of the Courts

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Michigan 20th Judicial Circuit Court

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Supreme Court of Virginia

Yolanda Lewis
Superior Court of Fulton County, Georgia

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State of Colorado

The Honorable Michael Trickey
Washington Court of Appeals, Division 1

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Judicial Council of Georgia

Craig Burlingame
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Introduction

Over the last decade, technology has evolved to improve the work of judges and court staff in jurisdictions across the country. The implementation of electronic filing platforms, along with new electronic case and records management systems, have brought sweeping changes to the way many state courts conduct business. While some of the burden of data entry has shifted to the electronic filer, and court record management has largely been automated, many court technologists, court practitioners, and case management vendors have failed to adequately address the changing needs of trial court judges.

Despite monumental success in automating the clerk's processes in case management, court systems lack electronic tools to meet the specific case processing, judicial decision making, and management needs of trial court judges on the bench and in chambers. With the appropriate tools, technology can assist judges in performing their duties, as well as improve the operational efficiency of the court and the quality of service to patrons of the justice system.

The Joint Technology Committee recognized this deficiency and appointed a Judicial Tools Work Group to research and document the technology and judicial case management needs of courts. The Work Group met to outline areas of focus and subsequently conducted a national survey of courts that have created, are developing, or are planning to implement tools to support trial court judges and judicial teams. The purpose of the survey was to identify and prioritize business and applications capabilities considered important by courts that were not represented on the work group. The results of the survey were combined with information gleaned from conversations held with judges and their staff to create the list of judicial needs and technology recommendations that are the core of this paper.

The goal of this paper is twofold: (1) to introduce the concept of judicial case flow management (JCFM) in order to shape future technology discussions, and (2) to identify considerations and recommendations in creating configurable judicial tools that meet judicial needs while improving the business capabilities and processes of judges on the bench and in chambers. This paper does not address appellate court judicial tools.

As a foundational note, this paper assumes the use of an electronic case record and highlights the need to develop judicial tools and processes that support the use of such records for judicial case flow management that are tailored to judges in and out of the courtroom. In addition to technology considerations, courts must address issues of policy, operation, and culture before deploying technological tools for trial court judges. These decisions are key to successful implementation.

Defining Judicial Tools

Judicial tools include functionalities and resources essential to accessing current and historic case information, and the means to manage and prioritize the work of a judge in chambers and on the bench. Examples of these tools include the calendaring and/or tracking of cases, the assignment of work to court staff and the legal community, and the ability to monitor progress of ongoing tasks. Judicial tools must also include applications, equipment, and resources that enable judicial decision making, research and document creation, and the execution and issuance of orders.

Enhancing existing case management tools and designing systems with court performance measures in mind will promote transparency and accountability. These enhancements should give such tools greater flexibility, which can make them more useful in daily case management and periodic review of judicial matters. Judicial dashboards can display current case tracking information, docket information, and the length of time the case has been pending.

Trial court judges in any jurisdiction have similar needs. While the tools needed by general jurisdiction judges may differ from those needed by limited jurisdiction judges, consideration of the needs of both are necessary to adequately discuss judicial tools. All judges, regardless of jurisdiction, have common needs for information in different formats, which calls for configurable tools that allow for individual preferences and for the information and data to be organized in a format that is beneficial to the judge and supporting staff.

Over time, judges have become more proficient at managing large numbers of cases and complicated matters in the world of paper files and paper dockets. Some judges may struggle to translate the work flow and decision-making process into the electronic file world. Work flow and a good decision-making environment must exist also for judges in the courtroom and in chambers.

Judicial tools, next-gen dashboards, and electronic records management systems integrate action-oriented management tools inside and outside the case management system into one display. Flexible, configurable screens accommodate the needs of different courtroom and chamber environments. Within the display screen of a particular case, a judge should be able to open notes, legal research, reporter transcripts, and past scribbles on the pleadings (judge eyes only).

Defining Judicial Case flow Management

This paper introduces the concept of *Judicial Case Flow Management* (JCFM) for the purpose of shaping future discussions on the development of technology and the needs of the court from a judicial perspective. The term "case management" has traditionally been used to refer to the overall process of moving cases from the point of filing to disposition, while ensuring procedural and substantive due process for litigants. Case management is a continuum of administrative management processes that include collaborative actions on behalf of the judge, clerk, and court administrator within an electronic case records system. The concept of judicial case flow management refers to the more isolated processes that relate specifically to the functions of a judge. JCFM most accurately relates to the process of managing formal events and unstructured information, both of which are essential, to allow a judge to effectively adjudicate a case in a timely manner.

Establishing a sound framework for creating judicial tools to support effective JCFM is a conceptual change for courts and technology vendors alike. The heightened discussion about effective case flow management no longer hinges on simply managing electronic records, but on the ability of the judge to utilize records to provide improved access to justice. Judicial case flow management is not isolated to the formal metrics of court management such as time to disposition, age of pending caseload, or cost per case. Instead, JCFM hinges on the development of configurable judicial tools that provide judges with more effective technological means of accessing case records, ruling on filed motions, electronically signing documents, and flagging case events, as well as scheduling and presiding over hearings and trials.

Requirements for a case management system have historically focused on the functions and processes of the Clerk of Court's Office. Instead, JCFM broadens the perspective to incorporate requirements that address the daily functions performed by a judge. Well-designed judicial tools support JCFM by helping the court leverage technology to increase procedural satisfaction, improve organizational capacity, and better utilize human capital.

Project Planning and Governance

Regardless of whether judicial tools are developed in-house or purchased as an off-the-shelf solution, the project planning stage is critical to developing and implementing cost-effective judicial tools. A project plan and methodology should include a governance structure for the project and define the process for gathering and documenting the business processes and the business requirements of judges.

Establishing a Project Plan

Developing a project plan is a critical step in implementation of judicial tools. At a minimum, a project plan should include a governance structure, a detailed project vision and scope, a development and implementation timeline, a communication and status reporting plan, a procurement plan (if applicable) and a budget. A well-developed plan is instructive and provides direction to those involved in the process and anticipates different needs and varying degrees of technical skill among the judges.

Engaging Stakeholders

A vital part in the development of any project is to have interested judges directly engaged as decision-makers from the project's inception. If judges are not active participants, the project will not be client-driven and will result in an incomplete solution or one that requires significant additional expenditures to be fully functional. For judges and staff to move from reactive case processing to proactive case management, their business requirements must be documented and included in the configurable tools.

While technology resources should manage the technical aspects of the project, judges should play key roles in the decision-making framework to ensure the tools that are designed meet their needs on the bench and in chambers, whether developed in-house or purchased as an off-the-shelf solution.

Creating a Project Governance Structure

Project governance establishes principles, policies, and vision for the project, as well as the process for decision making and conflict resolution among project team members.

Identify a project sponsor or lead. This individual establishes expectations and defines the scope of the project, its completion and success. A project sponsor can be the court administrator, IT project manager, or even the Chief Justice or another Presiding Judge, depending on the scope of the project. A project sponsor must set expectations and define desired outcomes at the beginning of every project in an effort to ensure that a quality proposal can be drafted.

The project sponsor must also ensure that judges are engaged as stakeholders and decision makers. Involve judges who are subject matter experts, good communicators, and respected leaders among their peers. Set expectations early in the project, ensuring that sponsors understand both the time required and the form of involvement expected. While participation will require a time commitment,

help judges understand that their participation is critical to implementing tools that will meet their needs and assist them in the resolution of cases.

Documenting Judicial Processes and Requirements

Many judges are experiencing a "new world" in how they manage their cases as courts shift to e-filing and electronic case management. In many jurisdictions, e-filing is simply another method for receiving documents into the electronic court record, and these documents are processed by the judiciary similar to documents that arrive in paper form, or that are generated internally. But many judges find it difficult to use electronic documents on the bench in the same way they were able to use paper documents and paper case files. Particular difficulties arise in locating and reading prior orders and pleadings that become important to a judge during the course of a hearing. In the same way that electronic case management systems have changed the role of many deputy court clerks into case managers, judicial tools will shape the role of the judge and staff as they rely on new tools to manage their dockets and cases.

All judicial business processes and requirements must be properly mapped, documented, and incorporated into a request for proposal (if one is being developed) or for implementation of an e-filing or electronic case management system that includes judicial tools. A single solution for all courts is not feasible, as every court's culture and resources are different.

Policy and process must be considered in the project-planning stage, and are critical in developing cost-effective, easy-to-use tools for judges and staff. This process should result in the documentation of business requirements. Any statewide or local government procurement effort should include these requirements on the front-end of the proposal, rather than following the award of a bid contract.

Considering the Concept of Judicial Case Management

The essence of effective judicial case management is pro-active management. However, the current paradigm of judicial case management centers on automating the official functions performed by trial court judges—accessing case records, ruling on filed motions, signing documents, scheduling and presiding over hearings and trials. This paper proposes that the concept of judicial case management be considered more broadly as *process management*, and advocates the development of tools based upon that broader conception. The key to enhancing performance of the judicial function conceptualized as process management is to provide judges and staff with tools to facilitate integration of information from official and unofficial sources, and to capture

operational-level workflows. The first step in developing appropriate tools is to understand the environments in which they may be used.

Court matters subject to judicial case management fall into two broad categories: proceedings in limited jurisdiction, high-volume courts, and multi event/complex cases, which can require months or years to move to disposition.

High-Volume Courts

Moving cases to disposition in high-volume courts (e.g., traffic dockets, arraignment dockets, etc.) is a courtroom-centric activity. To proactively manage single-event cases, judges and judicial staff must have pre-court real-time access to the records and the ability to access records from external sources such as probation offices, departments of motor vehicles, and other administrative agencies. Technology vendors now emphasize the accessibility of electronic case records from the bench. To manage the large calendars generally associated with single-event proceedings, tools to handle in-court logistics and timely completion and documentation of outcomes warrant special consideration.

A management process common in high-volume courts is the re-organization of events in real time. Traditional case management systems produce a fixed calendar or docket with cases appearing in a set order. That calendar is generally published and is the official record of proceedings. However, to make the best use of time, available cases are commonly rearranged and sorted by various criteria in court after the docket is called. The practical outcome is that judges, lawyers, and support staff are required to navigate a fixed, usually paper, calendar or docket to identify what cases should be heard in what order. Tools to make real-time calendar adjustments without affecting the official recorded calendar would greatly reduce the in-court confusion caused by ad hoc logistical changes. Flexible docket organization allows judges to organize cases on dockets into prioritized categories, for example, cases with private attorneys, all cases with interpreters, and all self-represented litigants.

The final challenge in high volume environments is integrating new data and efficiently documenting dispositions. Often information necessary to the resolution of single-event cases only becomes available when the case is called in the courtroom. Technology that allows data to be entered from the courtroom into the official case record, whether by real-time data entry or on site scanning, would be invaluable.

Dispositions in high-volume proceedings are typically documented by entry of form orders or handwritten notes on a docket or calendar. Tools that offer the

ability to easily create forms that integrate free text and auto-populated or "point and click" data are ideal for such environments. Tools supporting e-signatures, batch filing and scheduling, and bulk entry of dispositions are likewise critical as courts move from paper forms to digital records.

Multi-Event Courts

At the other end of the case-processing spectrum are those cases that require multiple hearings, filings, and court contacts over time. Because multi-event cases are largely driven by strategic decisions of the parties, the judicial management function requires developing and executing a strategy for moving the case to an appropriate resolution in a timely fashion without unduly limiting the parties' freedom to fully litigate issues that arise.

Judicial decision making is information driven. Judges and their direct support staff represent the operational level of the justice system, the level at which decisions are made about how cases will progress over time. The process management decisions that move cases through the court system to resolution require consideration of both the official court record and the unstructured information that is routinely filtered to judges through conferences, phone calls, and staff communications. This suggests the need for operational or chambers-level information management tools and workflow applications to integrate all the information sources upon which judges rely.

Without tools to document and retrieve operational-level data, the fruits of that process get lost—memories fade, paper sticky notes fall off the computer monitor, or the paper with the notes about the case gets buried in a pile. That iterative process of case evaluation and planning is a core element of the judicial process management function that is not, however, supported by traditional case management systems because the result is not made part of the official record.

Judicial case management requires coordinating and tracking people, records, paper and work in progress. Thus, knowing where work is in a chambers or judicial pipeline is left to ad hoc records and memory. Without tools to document internal task and case progression, judges and staff often "manage by crisis" or become dependent upon updates and status reports from litigants.

Circuit Riding Judges

Circuit riding judges present particular challenges in judicial tools because they may be responsible for cases that are maintained in differing formats, in different computer systems, or in no system. That does not, however, change the need to manage the caseload as a whole. The ideal technology in those circumstances

would allow a judge to maintain his or her caseload in a single, independent system that could also be integrated with one or more larger systems. A web-based solution may be a good option.

Problem Solving Courts

Problem solving courts (drug courts, mental health courts, veterans' courts, etc.) present unique challenges, as well. In recent years, courts around the country have created problem-solving or diversionary courts, but there are few case management systems today that address this unique court structure. Such courts are often grant-funded and follow rules and processes that are different from the routine operations of the rest of the court. Problem-solving courts rely on the rapid sharing of information between courts and outside treatment agencies, testing facilities, probation and social services. Many problem-solving courts also have privacy and non-disclosure requirements that dictate what should be maintained in general case management systems, especially those without configurable access restrictions. The unique technology needs of such courts must be addressed, as well.

Judicial Tools Business Capabilities & Technology

Judicial tools need to provide flexibility to allow both judges and their designated staff to access cases and documents, manage case files, electronically sign documents, and prepare both standard and customized forms and orders using data integrated from the case management system or prepared by attorneys or parties for the judge's consideration.

Many options are available to assist judges in achieving efficiencies and expanding their access to much-needed information; however, these tools must be convenient, intuitive, and effective. Too many features leads to complexity. Judicial tools should be intuitive and get judges quickly to their information with touch screen technology and/or a minimum of clicks or navigation. Software is needed that is device independent and will work on computers, laptops, tablets, and smartphones without difficult setup and costly overhead.

Assisting judges in the migration to electronic documents and information is often an iterative process. Some judges may immediately begin to use all tools available to them, while others will be slow to embrace the new technology. Delegating access to judicial tools to support staff can help judges make the transition to electronic records and paper-on-demand files. When support staff can quickly and easily find information, sign documents and prepare orders using the judicial tools, judges will have greater confidence in the tools.

As many of the tool's features as possible should be configurable, meaning the user is able to change the look, feel, or workflow without requiring a software engineer to make a modification. Configurable tools also allow dynamic changes in how case information is viewed or displayed.

Case Information

The creation of judicial tools provides an opportunity for the judiciary to ensure they have access to relevant electronic case information and documents as well as other tools and features to improve their decision-making process, case management, and efficiency. Traditional electronic case management systems lack tools specific to the case processing needs of judges; therefore, many judges rely on paper records and case files. If judicial tools are provided in a modern, easy-to-use framework, with features geared towards improving judicial productivity and decision making, more judges will use them. For example, judges that currently prefer to work with paper documents may readily adopt electronic documents when presented with a well-designed electronic case and document application running on a tablet, or provided the ability to utilize multiple monitors with their chambers' computers to allow them to easily review case data and documents simultaneously. The implementation of robust search features and optical character recognition throughout all court system documents provides judges with improved accessibility from traditional paper court documents, creating a "better than paper" experience.

Judges on the bench need quick access to case information, not only for the case before him/her, but also access to other cases that may be relevant. For example, a judge may want access to a restraining order case that involves the same parties as a divorce case in which they are presiding over. A judge may also want to access a criminal case defendant's other pending cases when considering concurrent or consecutive sentencing options. Finally, a judge may want access to all cases involving a particular family when dealing with a juvenile in need of protective services. Access to case management data should be statewide where possible, and include confidential case types as allowed.

Judicial tools should allow users to easily locate, retrieve and work with electronic documents, including opening multiple documents from multiple cases simultaneously. Electronic document should be accessible for parties while in and out of the courtroom.

Judicial technology is of particular benefit to criminal and family court judges, who may be required to be available after normal business hours to approve emergency warrants and custody orders, for example. Other examples where

technology is of particular value include circuit-riding judges, who hold court in multiple geographic locations. Many judges operate in courts with large caseloads, and may want remote access to the electronic courtroom to keep up with the workload.

Judges need the ability to search by many common data elements to ensure timely access to case management information. Examples of common search elements include party name, personal identifiers such as social security numbers, case number, date of birth, case type or document type, and event date.

Case results should include high-value information such as:

- Case summary including case age
- Party details and identifiers
- Attorney details
- Court record
- Future calendar events
- Charges/charge History
- Financial information
- Judgments and sentencing
- Recordings/transcripts (if available)
- Ability to determine if parties have been properly served or notified

Judges should be able to quickly access documents from the case viewer.

While performing case research, judges rely on a number of internal and external data sources as part of their case flow management. Research tools should provide judges with access to commonly-used internal data sources as well as external data sources for case preparation and research.

Internal data sources:

1. Case management information
2. Electronic documents
3. Calendars
4. Jury instructions
5. Financial/Sentencing calculators
6. Access to the official court record (audio/video files, court reporter notes/transcripts)
7. Calculators for child support, tax calculations for maintenance and sentencing

8. Related case information
9. Bench books/statutes
10. Court-approved forms

External data sources:

1. Related case information (for case types external to the court)
2. Online legal research
3. Corrections
4. Sheriff/law enforcement
5. Probation offices
6. Motor vehicles
7. Other justice and social services agencies
8. NLETS (National Law Enforcement Telecommunications Service)
9. NCIC (National Crime Information Center)
10. State Criminal History Repository
11. Private Service Providers (drug testing, counseling, etc.)

Technology Recommendation:

Judges who will need or want to work off-site should be provided with tools that allow the following:

1. Remote access tools that include encryption and intensive security to protect against fraudulent use.
2. Remote access to the court case information and court files for current and related cases.
3. Ability to communicate directly to a law enforcement officer, prosecutor, or defense counsel and to directly share information or content, including photos, videos and other complex data types.

Judges should have access also to non-traditional information and alerts for activities and decision points that occur between formal judicial acts.

1. Additionally, judicial tools should offer configurable, business intelligence functionalities that provide judges with access and the ability to manage information not contained in the traditional case management file. Information and decision points that do not rise to official judicial acts should be captured and available for review.
2. Judges should be able to link elements in the database to perform searches of certain types of cases of a certain age, etc.

Calendars

Trial court judges and staff need a variety of calendar tools and views. Judges should be able to see calendar information at various levels–a month, a week, or

a day at a time; individual calendar sessions; and cases within sessions. For example, judges need a daily calendar to know what cases will be heard on any given day. Days and times blocked for administrative activities and professional commitments should be included, as well as the length of time scheduled for hearings, calendar conflicts, or other events that may take place. A weekly calendar provides a snapshot of what cases or activities will be occurring throughout the week, which is helpful when a judge has a hearing day in another court location, or professional events to attend. A monthly calendar can provide judges and their staff with indicators of where time is available to schedule future activities.

Calendar events should be synchronized so as to eliminate the need to maintain multiple calendars. Judges should have "point and click" access to all case information through the calendar.

Technology Recommendation:

Judges and their staff need access to a variety of calendar views displayed in many different formats, by day, week, and month. Graphical representations are especially useful for looking at many calendar days simultaneously, as well as viewing what cases will be heard, their location, time, parties attending, and reason for the calendar item. Color-coding may be utilized to indicate locations, over-scheduled calendars, and the number of cases queued up for time blocks.

1. Graphical view of all court and non-court schedule events
2. Graphical view for a day, week, and month views
3. Ability to display the length of time allocated for a scheduled event
4. Ability to display gaps in hours where no scheduled events occur
5. Ability to display overlap or conflicts between two scheduled events
6. The ability to export calendar data in different formats for personal calendars or mobile devices (example: iCalendar Feed)
7. Ability to access judge's comprehensive calendar, particularly if he or she presides in multiple jurisdictions, to ensure no conflicts exist when scheduling future hearings in other locations
8. Ability for judges to see their personal calendar overlaid onto the work calendar
9. Access to case information and electronic documents from calendar event
10. Ability to calendar future events, including private/personal events

Case Management Information

Judicial tools should provide traditional case management reporting as well as tools to manage other types of judicial information. Traditional case management reporting should include the status of cases relative to benchmarks and case

processing goals, as well as the ability to manage cases that have no future calendar dates. Additionally, judicial tools should offer configurable business intelligence functionalities that provide judges with access and the ability to manage information not contained in the traditional case management file. Information and decision points that do not rise to official judicial acts should be captured and available for review.

Judges should be able to link elements in the database to perform searches of certain types of cases of a certain age, with no scheduled events, etc. Courts can utilize caseload, case flow, workload, and outcome data to assist in managing cases assigned to a judge, to groups of judges, and to the court as a whole. Graphics of court benchmarks and case processing goals will help judges to understand the status of key performance measures at a glance. Similar graphics should allow judges to view a list of the specific cases associated with each statistical measure and display alerts on cases that are outside acceptable parameters.

These tools are a "chambers dashboard" with ticklers and alerts for case management. Actions needed by the judge should be available as part of the case management and reporting tools.

Technology Recommendation:

Judicial tools should provide each judge with ready access to traditional case management information relative to time standards and benchmarks. Case management and reporting tools should include:

1. Graphical view of age of pending case status with drill down to specific case management information and case documents
2. Real-time access to case management information relative to benchmarks and time standards
3. Ticklers and alert systems for judges to manage the chambers processing of cases throughout the lifecycle
4. Ability to monitor and report compliance with case management time standards
5. Access to benchmark alerts for cases out of compliance with time standards
6. Ability to monitor cases with no future scheduled court activities

Electronic Documents

One benefit of implementing an electronic court is that it allows mobility of both workers and customers. Having everything in digital form and accessible via internet allows interaction with the court to occur from virtually any location and at

any time. The benefits of mobility are particularly valuable to judges because the judicial role may be performed in multiple locations.

Judges and their staff produce a variety of written orders and documents for other parties. Data that has already been entered into the CMS should be utilized in document creation to reduce duplicate data entry.

Access and Viewing

Judicial tools must allow Judges and staff to access and work with legal documents, orders, and other content related to cases whether in the courtroom, chambers, or other location, while protecting against unauthorized access, alteration, or destruction. This includes finding and viewing case materials (displaying multiple documents from many different cases at the same time), making notes and other annotations, and maintaining appropriate versions (original, annotated, redacted, approved, etc.). The tools must present electronic documents in a user-friendly manner. Electronic documents must be accessible for parties while in the courtroom.

Technology Recommendation:

Judicial tools aimed at providing judges with access to electronic documents should include:

1. Ability to search/filter documents by document title, content, and annotations
2. Multiple presentation options: index-based view as well as thumbnail/carousel view of documents
3. Ability to annotate documents, highlight and create private notes
4. Ability to create standardized list view of documents for review by case type/class code
5. Ability to access all electronic documents including transcripts and exhibits
6. A complete versioning display allowing users to view all changes made to the document
7. Ability to determine the correct or most current version of a document
8. Document notes should be an overlay on the document and not be permanently burned into the document, except in the case of a permanent redaction. Users should be able to quickly view the original document without annotations, and print with or without annotations.
9. Document notes should automatically capture the date, time, and author.
10. Document notes should be editable by authorized users, with all interaction tracked for auditing purposes.
11. Document notes should allow varying security levels so that certain notes may be made more secure than others.

12. Users should be able to see all document notes in a concise fashion, with the ability to sort by date and author.
13. Document notes should be searchable by authorized users. The searching capabilities must respect security restrictions.
14. Document notes should not be overused and should not replace data stored in document indices. Information that is applied to all (or most) documents and that is commonly searched should be stored in document indices instead of document notes.
15. Document notes should be automatically applied by the system in certain instances: stamping a document as "received" or with a timestamp, for example.
16. Document redactions are a special type of document note and should allow for the creation of a version of the document with the redaction made permanent.

Document Generation

Judicial tools should assist the judge in quickly creating appropriate documents. A full-featured word processor should be one of the tools. Additionally, judges and their staff should have access to a bank of document templates and relevant past orders and opinions. Case information should be merged into predefined court forms, generating routine documents automatically when possible. Versions of more complex documents that are handled by multiple individuals must be maintained.

Key word searches and other techniques within the document bank should expedite the drafting of new documents. Judges should have access to case documents, transcripts, and legal research materials while creating documents.

During normal court proceeding, chambers receive filings of proposed orders from different parties. These documents can be filed electronically and judges and their staff need to receive information, such as when documents are filed, who filed them, and if changes were made to proposed orders. Once orders are reviewed and electronically signed, the judicial tools should indicate who reviewed and approved the proposed order and identify any changes that were made.

Obtaining signatures from parties and producing and distributing copies of the documents also are included in this capability. Two common approaches are used to sign in the electronic world: A text indicator such as "/s/ JUDGE NAME" is placed on the document, or an actual image representation of the judge's signature is applied to the document.

<u>Technology Recommendation:</u>

1. Ability to prepare standard forms, reports, and letters with data retrieval from the case management system.
2. Ability to electronically sign documents, including signing by proxy.
3. Security and an audit trail to ensure that the electronic signature is applied by the right person and that the timing and intention is logged as part of the case data if the signature is ever challenged.
4. Ability to quickly make permanent changes to the document, including redacting information, applying check-marks, strike-through, official stamps, and keying new data onto the document during the electronic signing process. All changes made during this process must be logged in the permanent audit trail of the document and versions of the document before the change should be kept as part of the record.
5. Full-featured word processor to draft orders
6. Ability to search other authored documents and use them as a reference to create a new one
7. Ability to create documents by merging a template with data already stored in other databases (CMS, document storage system, etc.). Document creation should have the ability to be performed automatically, in batches, or a single document ad-hoc.
8. Ability to electronically receive proposed orders from attorneys. Orders must be editable and automatically saved into a standard format when judge's changes are complete and the document is electronically signed (see previous section for electronic signing recommendations).
9. Ability to route the proposed order to one or more work queues for review and updates
    a. Track who sent the document to whom
    b. When the document was sent
    c. Store notes and comments within each document version
10. Ability to receive filing orders and other documents from clerk staff
11. Ability to obtain electronic signatures on documents from litigants, in court, through signature pads or other electronic signature capture tools.

Delegation and Permissions

Use of judicial tools will vary among the judiciary based on each judge's interest, experience, and confidence with using technology as part of their daily work flow. Judges must be able to delegate application of a signature on certain documents as some judges rely on the support staff to complete electronic or digital tasks on their behalf. Delegation and audit tools provide an opportunity for judges who prefer traditional paper files and documents to transition to reliance on the electronic record. As judges set the delegation and permission authorities for various judicial tool components, they indirectly increase their reliance on the

judicial tool applications as support staff begin to use the features aimed at improving the value and accessibility of electronic records.

Technology Recommendation:

1. Judges need the ability to set delegation and permissions for various aspects of the judicial tool applications.
2. Delegation features should provide granularity so the judge can authorize electronic signing rights to staff by form.
3. An audit report should accompany the electronic signing application to provide judges with delegated signing information for all electronically signed documents. Digitally certifying these documents will ensure all documents stored in the document management system are genuine and authentic court documents.

Chambers Work

As court chambers are processing cases from the initial filing to final disposition, the case will cross several desks. At each stop, the judge or staff will have a specific type of work to complete or decision to make.

Judicial Workflow

In the electronic world, approval and signing of documents continue to be a critical step to ensure that the judges' intentions are captured and preserved. Electronic documents can present some technical challenges, but workflow queues are an effective method for presenting the documents for electronic signature in an organized and efficient way.

Tasks that require judicial attention along with the associated reminders and deadlines can be queued to ensure that the oldest and most important matters are displayed prominently. The workflow can be set up for approved or signed matters can be passed along to appropriate individuals (e.g., staff, clerk, or attorneys) after they are addressed by the judge.

Technology Recommendation:

1. Ability for a judge to manage matters taken under advisement, which may mean placing a matter in a pending status for a pre-determined period of time, while keeping the matter alive in the system so that it is not forgotten.

Workflow process queues provide a mechanism to assign a case or document to the proper person either manually or automatically (based on business rules),

track where the file is currently assigned, who is working on what aspect of the case file or document, and what is the next step.

1. Because processes change naturally over time and also to promote ongoing process improvement, the workflow tools should be configurable (as opposed to requiring software development).
2. Judicial tools should provide each judge and staff with ready access to work that is in a queue where action is required.
3. Judges need a simple view of work in queue and a minimal number of queues to monitor. Performing tasks should be simplified to as few steps, touches, or clicks as possible.
4. Judges and staff should have the ability to manage a case from filing to disposition using workflow queues.
5. Courts should look for advanced and mature workflow technology so that built-in features are maximized.
6. Work should only be presented to a judge when it is ready to be worked (after all required steps or data gathering and entry are complete). This can be facilitated through workflow rules.
7. Having a "rules engine[1]" as part of a workflow solution is desirable because it allows flexibility to be built into the process.
8. Judges require a queue containing all documents that are pending review or signing.
9. Judges require the ability to submit documents back to other queues for review.
10. Task lists for judges to manage activities and decisions points between scheduled activities

Legal Research

Judges often want to search for prior published and unpublished opinions and other documents to assist in making judicial decisions. Many Judges prefer to maintain and search local resources, in addition to the commercial and public repositories. Trial court judges and staff should have access also to a bank of document templates and relevant past orders and opinions. Judges should have the ability to use key word searches and other techniques within the document bank to expedite the drafting of new documents. Judges should also have ready access to legal research tools while creating documents.

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[1] Rules Engine: enables flexibility in the workflow process and avoids "hard-coding". The Rules Engine stores both rules and related variables. Rules and variables are changed by either a user or automatically based on data from inside or outside of the system. The workflow process uses the Rules Engine by querying it at runtime at various points in the workflow logic. Thus changes to the rules or variables cause changes in the process.

Technology Recommendation:

1. Access to knowledge base of past orders, opinions, and legal research tools
2. Access to the full case file including recordings/transcripts
3. Access to knowledge base of past orders, opinions and legal research tools

Court Events

Meaningful, actionable court events are essential to increasing efficiency in adjudicating cases. Leveraging the use of judicial tools to manage the case requires customizable technology that allows the chamber to manage parties and specific events in a comprehensive manner.

Docket Management

Judges often work cases or events according to a schedule. Sometimes many events are scheduled within a block of time with cases called on in a variety of manners. For these situations, judicial tools are necessary that allow judicial staff to manage the assignment of case events to courtrooms, checking parties in, calling cases (reordering cases by attorney, party, police officer, witness) and to process a number of events in a short time. Efficiency is of paramount importance. The tools must present only the information necessary to the judicial staff where and when it is needed. Working a docket is faster paced than working from a queue, and requires the flexibility to change the order of events.

In high-volume courts, calendar tools can help improve case processing efficiency by providing judges a tool for calling cases as well as grouping cases with the same parties or counsel. High-volume courts have complex calendar requirements owing to the large volume of parties and attorneys that may be present during intake, initial appearance, and return date time blocks. Case processing can be more efficient by providing judges and staff with calendar information in a list view sortable by a variety of elements. Some examples are notes to judges and courtroom staff (relating to delays in party arrivals, etc.) and calendar progress statistics as events are held. Also helpful is a view of the calendar that hides events that have been completed.

Technology Recommendation:

1. Docket management tools that allow calendars to be reorganized in the courtroom for the purpose of fluid courtroom management without changing the original calendar.

2. Workflow tools that allow many scheduled items to be managed by a central "dispatcher." This role allows the judicial staff to see the schedule and to rearrange tasks or events.
3. Graphical view that displays the total number of cases and total number of scheduled court minutes.
4. Configurable list view that provides key data fields by case type to allow processing of case from calendar when possible.
5. Access to additional case information and electronic documents from calendar event.
6. Ability to toggle between view of entire docket and only cases not yet heard or resolved.
7. Electronic devices such as tablets, e-readers, or laptop computers on the bench. The judge should have access to technology on the bench, and that technology should not interfere with the judge's view of the courtroom. Monitors can be installed within the desk (under glass), or be positioned on an angle such that the judge's view is not impaired.
8. Ability to retrieve, complete and enter electronic documents and cases for judges while in court.
9. Ability to display modified calendars and calendar status information.

Remote Proceedings

Judicial technology is of particular benefit to criminal and family court judges, who may be required to be available after normal business hours to approve emergency warrants and custody orders, for example. Other examples where technology is of particular value include circuit riding judges, who hold court in multiple geographic locations. Many judges operate in courts with large caseloads, and may want remote access to the electronic courtroom to keep up with the workload.

With the advancement in low-cost audio-video technology, many jurisdictions are able to offer virtual or remote participation in multiple proceedings with synchronous communication between remote locations. Courts with a significant criminal docket are performing arraignments remotely using technology. This same technology has also proven beneficial for courts with interpreting needs that must be met at short notice or to offer testimony for an expert witness from a distant location. Jurisdictions employing this technology have realized significant cost savings leading to an expansion of its use.

Often during a video arraignment, documents are created by the judicial staff. These documents are often created dynamically based on the plea of the defendant and related path of the arraignment process. During an arraignment,

judges and the defendant may need to sign documents, requiring an integrated video/data communication system.

Technology Recommendation:

Judges who will need or want to work off-site should be provided with tools that allow the following:

1. Ability to read, approve, sign, and electronically transmit a warrant or order remotely.
2. Audit trail to protect the integrity of the event.
3. Ability to communicate directly to a law enforcement officer, prosecutor, or defense counsel, and to directly share information or content, including photos, videos and other complex data types.

Judges that work a significant criminal docket require technology tools that provide the following:

1. Live, secure, and reliable audio-video to the jail to support a remote proceeding.
2. Document packet creation tools that will auto generate the required documents based on the case type.
3. Tools that allow the judge or judicial staff to dynamically alter the documents in the packet based on the arraignment decisions and responses.
4. Allow the judge or judicial staff to make rapid broad scale changes to all documents in the packet.
5. Allow the Judge to electronically sign the documents in the packet.
6. Allow the defendant to electronically sign appropriate documents in the packet.
7. Allow a printed copy of certain records to be given to the defendant.

Notes

Judges and judicial staff need to be able to make and preserve searchable notes in several areas. Notes can take the form of an annotation on a document, or they may be stored and managed separately from the documents. Security on case notes is of paramount importance to the judiciary, since many notes are private and not part of the public record.

Some notes needed by most of the file readers are generally applied to the entire case, and should not be attached to a single document. The value of case file notes is that they are often the first place a reader looks when viewing a file. Most case file notes should be accessible to all court staff and are generally the

same type of information that would commonly be written on the case file jacket prior to the advent of electronic tools.

Judges employ a variety of electronic tools to take notes regarding the case, evidence, witness testimony, or legal issues during hearings and as part of traditional case file review and research. These notes must be attached to the hearing record, to the case, to the calendar, or to documents.

Document notes take many forms. Popular forms are: sticky notes, lines, arrows, highlighting in various colors, redaction, etc. Document notes are necessary to allow users to communicate valuable ad-hoc information to one another. Judges should have the ability to create private notes, and to control whether to delegate access to these notes.

Preserve metadata about the notes regardless when or where they are made. These notes may be made during a hearing, in chambers, or at another location.

Technology Recommendation:

1. A full-featured word processor should be one of the tools.
2. All judicial notes whether taken during hearings and trials or while working in chambers should be linked to the case and available from the dashboard or CMS judge screen.
3. Case file notes should be easy to view and in most cases should be the first thing that is displayed when the electronic case file is opened.
4. Case file notes should allow a free-form text box with a large capacity of characters (16K or more). Ability for rich text in the text box is a desired feature to support some basic word processing constructs (such as color, highlighting, underlining, bullets, etc.).
5. Case file notes should be searchable.
6. Case file notes need to automatically capture the date, time, and author.
7. Case file notes should only be editable by the original author and only for a limited time.
8. All case file notes interaction should be tracked for auditing purposes.
9. Case file notes should allow varying security levels so that certain notes are more secure than others.
10. Users should be able to see all case file notes in a concise fashion, with the ability to sort by date and author.
11. Judges should have the ability to create notes during court hearings and in chambers.
12. The private notes a judge takes in a word processor or other note-taking program during a hearing or trial should be accessible directly from the

judge screen for the case with the contents private and accessible only by the judge or his/her delegate(s).

13. Case file notes should be searchable by authorized users. The searching capabilities must respect the security restrictions.
14. To improve user efficiency, the document management system should be able to automatically apply certain case file notes based on case information that is present in documents or from other sources.
15. Case file notes should support color to quickly convey information to the reader.

Communication

Communication and collaboration between judges, judicial staff, and other justice offices is critical. As the court moves to an electronic record, a whole array of benefits to the judiciary become possible. Collaboration is necessary at every step of the judicial process, and basic tools such as e-mail integration must be standard.

In high-volume courts, collaboration tools provide the most benefit when they are used to improve case processing efficiency. High-volume courts often work best when they work like an assembly line, with many parties playing a narrow role. Collaboration in this environment needs to be instantaneous and unobtrusive, such as instant messaging or texting systems.

This communication may be by text or audio/video, person-to-person, and may involve a number of individuals in different locations. At times, the communication may involve the transmission or sharing of documents or other materials.

Technology Recommendation:

1. Rapid text dialog, such as instant messaging, is necessary between court staff. The text dialog is enhanced with the ability to support hypertext links that reference documents and other case information.
2. Multi-media communication using IP based audio-video technology is helpful for judges and judicial staff. As previously mentioned, this technology is used during arraignments and emergency warrants, and is also needed to support dialogs that are too complex for other tools. These tools should be able to support a text dialog in parallel for presenting exhibits.
3. Some collaboration that is repetitive is best managed by workflow technology. Workflow is better suited in some instances because it is more rigid and auditable than ad-hoc collaboration technology. For example, when a decision is made on a case, this should initiate a workflow process that notifies other staff and even outside parties of the result.

4. Tools that allow customer-friendly collaboration with the public are useful in the modern electronic court. For example, these tools may allow the public to see schedules, check-in for a case, schedule a hearing, and pay fines.
5. Whether the collaboration dialog should be preserved as a secure and permanent case artifact should also be considered based on statutory and other limitations.

Conclusion

For years, judges across the country have asked for technical tools to help manage matters on the bench and in chambers. The heightened discussion regarding effective case flow management no longer hinges on simply managing electronic records, but on the ability of the judge to utilize such records to provide improved access to justice. This paper seeks to shape future discussion about the operational efficiency of courts, both in broad and isolated terms, including the technology needs of jurists. If courts are to leverage technology as a means of providing justice, judges must play a key role in planning and designing case management tools to meet those needs. In addition, courts must look beyond basic court metrics to include evaluating the work of the judge on the bench and in chambers when seeking ways to enhance overall court performance. To that end, refocusing the conversation to Judicial Case Flow Management is a vital element in efforts to ensure due process and timely access to justice.

The next edition of "Making a Case for Judicial Tools" will focus specifically on the need for effective change management, as well as implementation and training, to improve the technological framework for the Court. That paper will be informative as well as instructive, with action-oriented steps that courts should consider as they seek to realize the full potential of judicial tools. Collectively, both papers can serve as a guide for courts as they develop the next generation of court technology, highlighting the importance of addressing judicial business processes in Judicial Case Flow Management.