Selecting and Implementing Matter Management for Corporate Legal Departments
- A Unique Challenge -

Overview

Corporate legal departments are faced with many unique challenges and obstacles, especially when it comes to technology. Their concerns are distinct and different from that of law firms so standard legal technology solutions are not always a perfect fit. Legal departments are often the odd-men-out within the corporations they serve – so where do they look for a technology roadmap to follow for selecting and implementing a matter management solution? In the course of this white paper, we explore best practices for both matter management product selection and installation. The information discussed here is a reflection of our 24 years of experience developing and customizing the LawBase matter management solution. Also, to verify the validity of our recommendations here, we also conducted interviews with several of our legal department clients.

Unique Technology Concerns for Corporate Legal Departments

Unlike law firms, corporate legal departments are part of a bigger enterprise. As a result, they do not always have complete control over choosing which programs they want to implement within the legal department. For example, the organization may have set a corporate standard on an email or document management system that may not be a standard solution used by the legal industry. Also, corporate legal departments must operate under a different set of rules than private law firms which can change how information must be handled. As a recent example, legal departments are subject to compliance with Sarbanes Oxley which has drastically altered the handling of information within the corporate setting.

Setting Reasonable Goals for the Matter Management Project

The first step in looking for a matter management solution is to determine what your goals are for the project. What are the "pain points" within your department and how can a matter management solution help you to solve those issues? Do this prior to reviewing vendor information. Survey your own users to determine their needs and requests. Also, consider your available budget for the new product, including software purchase, required hardware, implementation and training. These factors will combine to determine the scope of the project.

No software application will solve <u>all</u> of your problems the first day that it is installed. Therefore, tiered goals are best. Set reasonable goals for the very beginning of the project and then set additional objectives for subsequent benchmarks along the way, creating different phases for the installation of the software. If your department is large, you may determine that you want to bring on different sections of the legal department at a time. You can get a core group up and running efficiently prior to bringing the next segment online.

If your legal department is smaller, you may want to phase in particular modules or aspects of the matter management application and wait on others. Perhaps get the basic system up and running then fold in additional features like document assembly at a later date.

Selecting the Matter Management Vendor

Since there will be many vendors vying for your matter management contract, you need to feel comfortable with the vendor that you select. The following checklist consists of key attributes to consider and assess during your vendor review process.

Matter Management Vendor Criteria

> *Understands Your Needs and is Qualified:* The vendor should listen well and grasp a firm understanding of your needs and have experience similar to what you will require.
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> *Longevity and Track Record:* Selecting a vendor that has a strong history and proven track record of staying abreast of technology advances. This will give you a good indication that they can handle future developments as well. Generally, you should look for a company that has moved from DOS to Windows 3.1 to 32 bit Windows. The vendor needs to have a solid foundation of knowledge, but also must prove that they will be able to grow with your legal department well into the future.
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> *Size of Company:* Remember that size of the vendor company does not necessarily equal stability. More important is that the vendor that has a proven ability to install matter management solutions successfully. It is best not to eliminate a company based on their size because it is not a telling indicator of their quality of software or their performance.
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> *References:* Ask the vendor to provide you with references so you can speak with existing sites that are similar to yours. Ideally, you will want references in your same industry, geographic area and approximate size. You may find it useful to speak to both new installations as well as long-time clients. The advantage of newer clients is that they can give you an idea of why they chose the selected vendor over competitors that you may also be reviewing. Long-time clients can tell you how the vendor will handle support and upgrades, which should be critical considerations as part of your selection process. Also, some sites will be generous enough to invite you for a site visit to see the product in live production. A site visit is highly recommended if you can afford the time and expense.

Matter Management Product Criteria

In evaluating the matter management application itself, your needs will be somewhat unique, but your solution should include the following core features at a minimum:

Flexible Database: The heart of any matter management is the database that tracks selected information. This database should be flexible enough to be adapted to meet your requirements. Many leading matter management systems today will allow you this flexibility, so then determine how easy it is to make these adaptations. Can changes be made by your IT staff or do they need to be done by the vendor? How much training is required for your staff to be able to efficiently perform these functions?

Multiple Connection Options: Make sure that the application will operate on your networking infrastructure. Consider all the ways that users will need or want to connect to the system from outside the office. Do you need to be able to share information with outside counsel or users outside the legal department? The answers to these questions will determine if you need to look for an application that is client/server based, Wide Area Network based, Web based, works in a Wireless environment or a combination of the above. In the same way, you will want to decide which machines you will want the matter management application to reside on.

Expected Benefits

How can you expect to benefit after investing in a new matter management system? What will be your Return on Investment (ROI)? Partially, evaluating your success will depend upon your goals going into the project. At the very least, you should be able to expect the following benefits for your legal department:

- ✍ Increased Efficiency – A matter management system should allow your staff members to handle exponentially more matters than they could with a manual system. One site remarked that they increased the number of matters handled by 800% while increasing staff by only 100%. Another client stated, "In a period when all other agencies were requesting additional staff to handle an increasing workload, we maintained our staff level. In fact, our caseload has increased significantly over the last 3 years, yet we have been able to handle the increase without hiring additional staff." As your legal budget comes under yearly strain, your matter management software can help you meet higher demands by allowing your staff to work more efficiently.
- ✍ Provide better service – A matter management system allows you to provide better service to your corporate clients.
  - o Respond more quickly to inquiries with the matter information available at your fingertips – no need to track down the paper file.
  - o Notify the corporation of "trends" over which they may not be aware themselves. For example, you can more easily track an increase in the number of age discrimination claims as compared to other business units. Once you identify the trends, you can root out the source of the problem rather than simply reacting to claims after the fact.
  - o Proactively provide information to the corporation. For example, the matter management program can automatically notify the risk manager

via email each time the exposure amount is changed in a claim. Here again, rather than reacting after being contacted, you can provide necessary information to them before they have to request it.
    - Make information available to others in the corporation over a secured corporate intranet. Users can log on and have access to selected matter information. Security settings can limit each user's access only to matters that they are authorized to see.
- Create a knowledge base – A matter management system allows you to search past matters easily. In this way, you can quickly search past opinions that you have provided so that you do not constantly have to "reinvent the wheel".

Compliance Issues (Sarbanes Oxley):

Without a doubt the passage of Sarbanes Oxley in 2002 has represented one of the greatest changes in corporate governance since the U.S. Securities laws passed during the Depression. As a result, corporate counsel is not only required to make sure that the filing is completed, but also is tasked with making both CEOs and CFOs aware of matters which could materially affect the corporation financially. Additionally, other duties such as reporting of stock transfers of management and principal stockholders need to be reported on a timely basis. You may also be required to track potential conflicts of interest between officers and your company's audit firm. Even if your company is privately held, you may still find yourself accountable to comply, as Sarbanes is quickly becoming the "gold standard" for all corporate governance. Your matter management system can be adapted to track all of the required data allowing you to confidently report to the Officer and the Board about all material situations.

Integration Considerations:
Matter management applications tend to fall into two categories - either the "best-of-breed" or "all-in-one" solution. The type of product that you select will determine whether integrations to 3rd party applications are necessary. If you selected the "all-in-one" solution you probably did this partly to avoid integration issues so your integration considerations may be less of an issue. However, be sure to examine the actual points of integration that the system delivers, as well as realizing that best-of-breed products will frequently have more matter management functionality than the all-in-one offerings.

If you have selected one of the "best of breed" solutions, then integrating your new matter management is crucial. You want to be able to create a system uniquely suited to meet your needs by having your chosen applications work closely together. As a corporate legal department, you share some requirements with private law firms such as document management, calendaring, email and others but you also have some unique requirements such as electronic billing and budgeting.

Document Management Software: If you are currently using a document management application such as Hummingbird, Interwoven or WORLDOX, you have already made a large investment of both money and time in this application so linking the DMS and the matter management system is of paramount importance. While in the matter management application, you should be able to quickly retrieve all the documents profiled in your DMS that are related to that matter. For example, while reviewing a contract matter, your staff should be able to quickly retrieve and review all the versions of the contracts related to that matter. In this way, you have linked two vital applications to increase efficiency. Be wary of vendors that store the document in a proprietary matter management database rather than creating a link to the document in the DMS. In addition to doubling the storage requirements by having the document stored in multiple locations, the bigger problem this creates is the necessary synchronization between the DMS and matter management applications to make sure that users are always working off the most recent version of a document.

Email and Calendaring Applications

Your department is almost definitely using a calendaring and email application such as Microsoft Outlook®, GroupWise®, Lotus Notes® Calendar, or another third party application.

With e-mails, many of the messages that you receive are related to matters being handled in the legal department. A matter management system needs to include an easy way to link these emails to the matter. This linking is critically important as email becomes an increasingly indispensable method of correspondence. As you remove items from your e-mail "Inbox", you will want to store them in your matter management system. It should also be easy to email from within your matter management system.

Linking to your existing calendar application is also critically important. As users become more mobile, using Blackberries, Palm or other PDAs, they want to be able to take their calendars with them. Again, you should make sure that your desired matter management solution is able to work seamlessly with your existing calendaring application. You want to make sure that your users are not required to double post their tasks and appointments, but rather when they are entered into the matter management system or wireless device, the entries are automatically synchronized with their other calendars. The integration should also allow users to update appointments and tasks on their calendar and have those changes automatically reflected in the matter management system. This should include the ability to "post" events to calendars of users in the legal department but also that of corporate contacts that they deal with on a regular basis.

Budgeting/eBilling:

Perhaps no other area is as unique to corporate legal departments as budgeting of outside counsel and then tracking their bills to compare against those budgets. Your matter management system should allow you to set up budgets based upon your own internal needs. For example, you may want to set up the budgets based upon a time period, phases of litigation or for the life of the matter. Some clients have needed to track insurance payments of litigation costs and apply them to outside counsel budgets. For larger matters, you may have multiple outside counsels and need an overall budget for the matter as well as sub-budgets for each of the outside firms working on the matter. In short, you will probably have some unique budgeting needs and your matter management system should adjust to meet your requirements.

Once the budget has been set up, you will probably want to apply the outside counsel invoices to your matter budget.

You have three basic methods of getting this information into the system.

Method 1: Manual Entry
Any system should allow you to manually enter this information directly into the matter. Of course, it doesn't take a large number of matters before you quickly realize that manual entry can become a full time occupation for one or more of your employees which makes it highly impractical.

Method 2: eBilling Programs
Second, you may already have an ebilling program that accepts invoices from outside counsel and allows you to do invoice management functions. If you do not already have one, there are many very good programs available on the market for this. Basically, your outside counsel will submit their invoices to these companies which will do some basic checking for errors on the invoice before forwarding the bills on to you. The information will be automatically posted to these applications and you will be notified when new information is available. While these applications are most commonly used by your accounts payable staff, you may want this information to also be posted to your matter management application. In this way, you can quickly track how invoices compare to the budgets and even be notified automatically when bills reach a selected percentage of the budgeted amount.

Method 3: LEDES (Legal Electronic Data Exchange Standard – www.ledes.org)
Finally, there is a standardized format that was created for transmitting financial data from outside counsel to corporate counsel. This is the LEDES format.

Actually, there are several LEDES standards available. LEDES 98b is the older standard designed to facilitate task-based billing and is an ASCII delimited text format. Recognizing the limitations of the ASCII format, the LEDES committee created the LEDES 2000 format. LEDES 2000 took advantage of the newer XML standards and was much more flexible in allowing required data to be transferred.

Most time and billing applications used by your outside counsel will allow for at least one of the LEDES formats mentioned above. If you are interested in entering invoice information directly into your matter management application and don't have an invoice management application, your matter management system should accept data directly from LEDES. Before implementing any of these options, you will probably want to survey your outside counsel to see what export capabilities they have in their time and billing applications. It may be necessary for you to phase in this program gradually as is allowed by the technology available to your outside counsel.

Word Processing/Document Assembly
Your matter management system should be able to easily merge information from the system into your chosen word processor. The importance of this feature may vary greatly from practice area to practice area. For example, your contracts team may see a great usefulness to this feature while your Intellectual Property staff may not need it. Additionally, if you don't have a Document Management System, you will want an easy way to link word processing documents to specific matters.

Records Management
If you have a centralized file room, you may want to be able to track the physical location of files using bar coding or other technologies. If employing a records management system, you should strongly considering displaying this information in your matter management system. This allows users to see the location of the physical file was reviewing the electronic version of the file.

Custom Interfaces: Your legal department may be using other applications that were either custom-created for your department or for which the matter management vendor doesn't offer an interface. Under these circumstances, you will want to work with the vendor to specify the scope, timeline and estimated cost for them to build an interface for you.

Successful Installation of the Matter Management Solution

Once you have selected a matter management vendor, you will need to work to make sure that the implementation is successful. This section will discuss various considerations involved in the installation of a matter management system.

Matter management systems will change the "way that you work" and it is best to discuss ahead of time how the work processes will change after the implementation of the matter management system. For example, determine who will be responsible for the basic data entry of information into the system, etc.

Pre-installation:

- Team – Select a team of users to work on the project. The team should be a manageable size, but include the key people. All sections of the office should be represented, including different practice areas as well as different roles (attorneys, paralegals, secretaries, and IT staff).
- Product Review Meeting – During the selection phase, you will probably have reviewed several matter management applications. Therefore, users may not remember all the features of the system that was actually selected. Have a meeting to demo the software to your team and then start them thinking concretely about how the program will be adapted to meet your unique needs.
- Project Manager – You should select a project manager to handle the project on your behalf as well as insist that the vendor assign a project manager as well. This will

streamline communication between the parties as the installation project moves forward.

Timeline

Shortly after the selection of the matter management system, the respective project managers should work together on a project timeline. Make the vendor aware of important deadlines at the outset. This will only be a "perfect world" timeline for the project and that future events may well change those dates as the project moves forward, but the timeline is an essential roadmap for the stages of the project.

Design Phase

The design phase is an important part of the process where you will adapt the program to meet you own requirements.

- ✍ Get samples of database designs from the vendor for ideas of what other clients are tracking for different areas (i.e. litigation, IP, contracts, etc.)
- ✍ Review your existing data gathering applications such as MS Access databases, Excel spreadsheets, etc. that members of your department may already be using.
- ✍ Schedule time for teams of users to work with the designer to develop a working prototype.
- ✍ Have a small group of users test the prototype to determine what changes need to be made.
- ✍ Continue this aspect of the project until you have the database the way that you want it to be. Be aware that you will probably never have the "perfect" database. In the best installations, the database will need to be regularly revised to meet your evolving needs.

Training:

Training will most likely be divided into sessions for administrative training and end user training.

- ✍ Administrative Training – Who will be responsible for administrating the application once the program is installed? Will it be IT or will it be a "super-user" in the legal department?
- ✍ End User Training – You will need to determine the best way to train your staff. Should you divide the group by job responsibility (i.e. all attorneys trained together) or should you train by practice area? Each has its advantages and determine upon factors internal to your organization.

Other Aspects: You may have other aspects of the project that are unique to your organization.

- ✍ Determine what reports and template documents are necessary for the successful installation of the project. Again, you shouldn't expect every report and letter to be available in the first phase of the project.
- ✍ Making data available to others outside the legal department such as other corporate employees or outside counsel.

Continuing Requirements

Once the matter management program has been implemented, the process is not over. It should continue to evolve as the needs of your department grow and develop.

Periodic post-installation reviews: You should plan periodic reviews of the system to make sure that it continues to meet the needs of the legal department. This may be done annually or semi-annually.

Ongoing training: Training is a key aspect to incorporating any new technology. If you are going to make the investment in technology, you should be willing to make the investment in training your staff to fully use the application. We have also found it very beneficial when clients are willing to schedule a second round of training at a later time, perhaps 6 months after the initial training. This allows users to get comfortable with the basic functions of the software and then they are able to absorb more advanced techniques at a later time. Also, make sure to have one of your staff capable of training new incoming employees.

Upgrading Considerations: Your matter management vendor should keep you notified of new features and upgrades as they become available. Feel free to be proactive in this area – keep in touch with your vendor and make suggestions about new features and functions to improve the product. Many of the best ideas that are added to software applications first came from users.

Recommendations Directly from Other Corporate Legal Departments

In preparation for this white paper, we interviewed several of our legal department customers who use our LawBase matter management solution. In closing, we would like to share some of their recommendations "from the field":

? Be clear about what you want from the start. Chart out what you want the product to do – draw the actual screens you want to see and determine if the vendor can make them a reality.

? Stability of vendor product and company are key considerations. Go with the guts and not the glitz – that's what is going to last and serve your organization the best. A workhorse product is ideal in the long run – get a system that is not fragile and won't break.

? Expand your matter management software outside the legal department if you can. If you have several departments on the same system, it makes your life a lot easier.

? Software needs to be user-friendly since most users are not highly technical.

? Allot at least a year for the selection process if not more. Remember that even though you have made your decision, the corporate red tape of getting budget approval and payment will take time.

? Put demo information into the system and let your administrative staff experiment with it before rolling out to all users.

- ? Matter management can help you with security issues. It can enable you to give restricted file access to outside counsel, but you can lock down your documents properly with the right solution.

Conclusion

Matter Management can be a truly revolutionary technology that revolutionizes the productivity and efficiency of your legal department. The selection and implementation process are challenging and they take time and forethought. However, our clients have reported that the rewards are well worth the going through the process.