

Collaborative litigation support

Allison Stanfield, Queensland Law Foundation Technology Services, Brisbane

Research, preparation, presentation. These are the vital elements in the preparation of a case for trial and handling information in an efficient and easy-to-retrieve manner is essential in the conduct of any litigious matter, especially to gain an advantage over one's opponent. Any tools which assists a lawyer to present his or her client's case in a way which is most favourable to the client will obviously be welcomed. Already, information technology has been invaluable in many cases to assist lawyers to handle and digest large amounts of documentation for trial. Litigation support has already been used by many lawyers to assist in trial preparation and in some of the larger cases such as the Estate Mortgage Case, the Rothwells Trial and the Gretley Coal mine disaster, a new paradigm of litigation support has emerged. However, the model does not have to be confined to the larger cases.

What is litigation support?

The traditional litigation support model has been used by legal firms to assist in the preparation of a case - gathering, classifying, storing, indexing and retrieving large volumes of documents during discovery and also in the preparation of cases for trial. These systems tend to be "closed", that is, the litigation support system is used as an additional tool in dealing with hard copy, rather than as a toolkit which assists a practitioner to piece together elements of the case.

The collaborative litigation support model takes litigation support into another dimension. In the traditional model, the only documents which tend to be collected in a database are those which are discoverable and any legal research, counsel's opinions and contact details of the other party's legal representatives are collected in hard copy. By collecting and storing this other information electronically, this enables the practitioner to use technology to assist in

"Well, I hate to be the bearer of bad news, but the rest of the world has passed the legal community by when it comes to handling information":

James E McMillan,

"Toward the Electronic Court",

Trial, October 1995 at page 19

searching, indexing, sorting, storing, retrieving and piecing together the case.

Once the matter goes to trial, the documents can be accessed within the courtroom if it is properly equipped, and even provided to and accessed by members of the court.

Collaborative Litigation Support System (CLS System) - the new dimension

The Queensland Law Foundation Technology Services Pty Ltd, which is a company set up to manage the delivery and implementation of technology services within the legal technology arena, has joined forces with Auscript to provide a Collaborative Litigation Support System (CLS System). Auscript is an expert in document management and litigation support.

The CLS System has the following features:

- The brief to counsel can be collated as the case proceeds
- During discovery, documents are collected in a manner which makes it easy to electronically exchange bundles of documents and to provide any agreed documents to the court in electronic format
- Legal research materials such as case law, legislation and extracts from relevant texts and journals can be added to the database; links can then be made between the relevant docu-

- ments and the legal research material
- Expert reports can be added to the database
- As court materials are prepared, these can be added to the database
- Contact details for all parties concerned with the matter can be added to the database - eg barristers, solicitors representing the other side, expert witnesses and so on; automatic email is part of the service
- Once the documents have been collected into a central repository, or database, the documents can be accessed, on-line, by any member of the "team" - the "team" can include members of the same legal firm, barristers, experts and so on
- Delivered with powerful search engine facilities
- Delivered over a secure communications infrastructure
- Available from within and external to the courtroom
- In court, documents can be made available to the parties and to bench by use of an on-line system which can be updated throughout the proceedings (eg. *intranet* technology)
- Integration of documents tendered as evidence, court filed documents, real time transcript (RTT) and legal authorities

Myth: "This is only for the big cases and would not benefit me"

The CLS System can be used to store information about all litigious matters, big or small. All cases are about research, preparation and presentation, no matter what the size. Derek Hammil of the NSW Law Society has noted the advantages of litigation support:

- Improved accessibility to information - speed of retrieval, index systems
- Improved availability of information - 24 hours a day 365 days a year.

- Store once, publish once to many
- Improve completeness and accuracy of information
- Improved quality of legal research - power of electronic search mechanisms
- Distributed information access - over networks
- Information is portable - CD ROM remote access to networks
- Saves the time of both the participants and the court
- Reduces cost of services such as photocopying
- Automated production of required documents, such as a discovery list; Capacity to quickly sift, manipulate, massage related information to determine patterns, inconsistencies and issues
- Imposes planning and structure to the both the management of information (including hardcopy material) and case preparation generally
- Knowledge and 'value add' remains within the system. The loss of personnel is therefore not a disaster.

Who is QLFTS?

Queensland Law Foundation Technology Services Pty Ltd (QLFTS) is a subsidiary company of the Queensland Law Foundation, and was established in January 1997 to manage the delivery and implementation of technology services within the legal technology arena. QLFTS provides the following services:

- THEMIS - a state-of-the-art "extranet" for the legal profession throughout Queensland. The network is designed to provide lawyers with fast and affordable access to up-to-date legal research materials, electronic commerce services and secure communications.
- Technology consulting for law firms
- Courts and tribunals: technology consulting
- Systems automation: implementation consultancies
- Litigation support consultancies - providing technical implementation and analysis services.
- On-line searches of government databases
- Technology training for lawyers

THEMIS

THEMIS is a legal *extranet* designed to

provide on-line *Content Collaboration and Commerce* for lawyers, their clients and key government agencies. Customised electronic business forums are also being established through the network to service the electronic communication requirements of key institutional clients. THEMIS has over 500 subscribers (as at November 1997).

The following services are either available now or are soon to be implemented :

- Up-to-date access to legislative reprints with historical tracking (ie the law at any particular point in time can be gleaned)
- A discussion forum (a recent addition to which is the inclusion of the *Uniform Civil Procedure Rules - Draft Consultation*)
- National Law Review - one of Australia's first totally electronic and fully accredited law journals
- Proctor
- Audit trailed, secure communications
- A secure *intranet* infrastructure for collaborative litigation support solutions
- REIQ Contracts and Body Corporate and Community Management Forms
- Daily Law List
- Legal directory - practitioners, firms and organisations
- Electronic filing (pilot at this stage between the Court of Appeal and the Legal Aid Office)
- Queensland Law Society Library Catalogue and ordering service
- Suncorp insurance offerings
- LBC Information Services' catalogue
- Training Manuals

Additional services:

- John de Groot's Wills and Probate text
- LBC Information Services' Conveyancing Manual
- Family Court Forms

Who is Auscript?

Auscript is Australia's leading provider of information and communication products and services to the legal profession and has been providing recording and transcription and other legal technology services for over 75 years.

Auscript's Legal Support Services division was established in order to provide comprehensive document management for documents required in

discovery, case preparation and trial phases. Services include:

- database design
- implementation and maintenance
- database coding
- image scanning and
- full text indexing of documents

The division has been especially active in commercial and government litigation, developing litigation support solutions in various database platforms, to eliminate the litigation paper-chase. A team of legal information professionals and technology developers designs and oversees each project, with all processing being performed by a pool of paralegal workers.

Auscript's Legal Support Services document management service aims to allow the lawyers involved in a case to focus on the legal issues and management of the case, rather than spending their time chasing paper. There are three main elements to Auscript's document management services:

- Document preparation - removal of staples, the pagination of documents, the separation of documents into discrete units
- Indexing - data capture of all bibliographic data for each document
- Imaging - creation of digital image of each page of each document, linking of images to data records.

Conclusion

The model proposed by QLFTS and Auscript is one which allows practitioners to either:

- Obtain the empty database and populate it with documents during discovery; or
- Employ Auscript to undertake the preparation, indexing and imaging of the documents and make them available in the CLS System

Either way, the practitioner is then able to add to the database any research materials, and such materials as counsel's advice on evidence, contact details for the "other side", and so on. ■

For more information on the Collaborative Litigation Support System described above, or THEMIS, contact **Allison Stanfield** on phone 07 3839 9669 or 0419 759 236 or email astanfield@themis.com.au