

FOCUS

ON

Business Law

Choosing a practice management system

LUIGI BENETTON

Here's a New Year's resolution for lawyers: bring as many of your work systems as you can under one digital roof. That means putting matter management, calendars, contacts, time tracking, billing and other computer systems into a comprehensive practice management system.

Fifty to 70 per cent of lawyers use no electronic practice management system (PM system) of any sort, according to surveys quoted by Jack Newton, president of Themis Solutions, which markets Clio, a PM system. "The costs of buying and implementing systems have typically kept lawyers away," Newton says.

The *Lawyers Weekly* spoke with Newton and five other PM system vendors. They shared both shopping and implementation tips to help lawyers take the first steps in choosing and implementing the PM system that's right for them.

Since each PM system's story is too detailed to cram into this article, we have provided each vendor's website. Check them out yourself. Give them a call—they'll be happy to answer your questions.

SHOPPING TIPS

The vendors offered insights you can use to choose the right PM system for your practice.

Ease of use

Almost every vendor ranked ease of use highly, since a PM system must be a pleasure to use, or at least not something you dread starting at the beginning of a workday.

"Ease of use does not mean simplistic," says Ron Collins, CEO of Gavel and Gown Software Inc. and Credenza Software Inc. "The key is to provide sophisticated functionality in an easy way."

Integration with other systems

PM systems don't replace every other software tool a lawyer uses, but it must communicate with many of them to prevent headaches like unnecessary data duplication.

Free trial period

The only sure way to determine whether a PM system offers all the features you need and effectively serves your firm is to pilot-test it in your own firm using several current matters.

"It must dovetail with your workflow," says Larry Port, chief

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EDWARD SCHNURR FOR THE LAWYERS WEEKLY

Rise of franchise law creates challenges and opportunities

The roots of franchise law in Canada go back to at least the early '70s, when the growing franchise activity in the U.S. began to creep northward, and a few aspiring Canadian entrepreneurs saw opportunities in this then unusual method of distribution.

Back then, as today, a lot of the activity in franchising was in the fast food industry. The nascent real estate franchise sector attracted little notice at the time, yet it was one of the portents of today's multi-sector, multifaceted and robust franchise marketplace. Franchising in Canada today runs the gamut from retail businesses of every type, including service businesses, to many and varied business-to-business enterprises. Few lawyers would say now that



EDWARD LEVITT

they never encounter franchise issues in their practices.

In the '70s, for mainly political reasons, the province of Alberta chose to pass complex and restrictive franchise-specific legislation, mostly centered around pre-sale disclosure, but also requiring a franchise disclosure document to be approved by, and registered with, the Alberta Securities Commission. Two and a half decades later, Ontario became only the second province to wade into the regulation of franchising. Less than a decade

later, we now have such legislation in Prince Edward Island and New Brunswick, with Manitoba not far behind, and more provinces are likely to follow.

While there is a significant amount of commonality among these statutes and their regulations, there are just enough differences to challenge and trap the average practitioner.

In the past, it was quite easy and relatively safe for a business owner to embark on an expansion through a franchise distribution model. It was not uncommon for a new franchisor to employ the services of a trusted legal advisor, who had little or no knowledge about franchising. Those days are long gone.

In this increasingly litigious area of law, the franchisors who

do not acquire a sufficient amount of knowledge and expertise about franchising best practices are treading on very dangerous ground. And those who deign to offer such legal services without proper schooling are putting themselves at considerable risk; witness the rapidly increasing volume of negligence claims in franchise matters being handled by LawPRO.

Some of those claims are not just against lawyers acting for franchisors, but against those acting for franchisees as well, where a lack of knowledge about the legislation, availability of remedies and time limits form the basis of a claim. Through the broad application of the definition of a "franchisor's associate," individuals can find them-

selves unprotected by the "corporate veil" and vulnerable to the claims of franchisees.

Historically, there really was no franchise common law. There was simply contract and other case law applied to franchise fact situations. The attitudes of judges toward franchise cases were very individual and provided little guidance to those who had to work with their decisions.

While there are still arguably no common law franchise principles, the rapidly developing body of case law in franchise fact situations is amounting to the same thing, through a variety of means, including the interpretation and application of the various franchise stat-

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Reforms give small business more flexibility

Insolvency

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remittances are current. Not only would this decrease lending available to a company, it would be a further deterrent to offering pension plans to employees.

For lawyers with business clients who may be struggling with financial challenges, the following suggestions may help to minimize liabilities and guide a positive outcome in light of the new and proposed insolvency amendments.

Corporate directors and officers should be made aware of their potential liabilities. While the amendments provide directors and officers of insolvent companies with more protection from personal liability to encourage them to stay on board while a business undergoes restructuring, they remain liable for unpaid wages, commissions, vacation and termination pay if there are insufficient assets to cover claims. Management should be reminded to ensure that source deductions are remitted and wages and pension contributions are paid on a

“**Lenders expect to be apprised of problems, as well as the strategies being used to address these issues.**”

timely basis and that vacation accruals are regularly updated.

Management should also be encouraged to discuss with lenders any serious financial challenges the company is experiencing. Lenders expect to be informed of problems, as well as the strategies being used to address these issues. Corporate leaders must be able to explain to their lenders what is happening in every area of the business and to have available current, realistic weekly cash flow projections.

The amendments include provisions to encourage operating receiverships with the intention of finding going-concern solu-

tions/purchasers and saving jobs. At this stage it is not clear that this has been the result. To realize on any going-concern value, the principals of a company must be proactive in working with lenders, seeking a restructuring and/or pursuing a transaction through an insolvency process.

The reforms may have provided small and mid-size businesses with more flexibility for restructuring. However, the stronger economy and greater availability of credit will likely be more responsible for lower business bankruptcy statistics this year. Overall, the amendments have not changed the best response to financial distress, which is for company management to proactively address problems and seek appropriate advice. ■

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Implementation

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software architect of Rocket Matter LLC. “It should not be a square peg in a round hole.”

Training and support offerings

Does the vendor or its technology partner offer videos on its website? Regularly-scheduled webinars? Old-fashioned training courses? Is support free or fee-based? What hours of operation does the support desk offer?

Total cost of ownership

Implementing any PM system involves ongoing costs. For instance, on-premises systems must reside on a server which you must maintain after you’ve paid for installation. Also, you may need to consider upgrades, support and other costs.

Externally hosted (or SaaS—Software as a Service) systems might allow you to avoid these costs, but subscription fees will continue for as long as you use the system.

Hint: try a three- or five-year cost calculation to determine total cost of ownership for the systems you’re considering.

Offline access

If you frequently need to work in places where you aren’t in range of an Internet connection, make sure the PM system you choose lets you take your data with you.

IMPLEMENTATION TIPS

Once you choose a system, get started and keep the following advice in mind.

Get staff buy-in and train staff

PM systems attract lawyers who want to help staff collaborate more smoothly within the firm. To that end, you should help staff members understand

how the system makes their jobs easier.

Train all staff early so everybody knows how the system is supposed to work when they start using it. You can do this during a free trial period if the vendor offers one.

Proceed with caution

Make a complete backup of your current systems before installing any new software and moving data to your new system, says Alan Tuback, product manager—practice management for LexisNexis Canada Inc. (publisher of *The Lawyers Weekly*.) “After installation, log into all other applications that you use to ensure that they function properly.” Plan for one or two months of overlap, when you run your existing systems and the PM system simultaneously.

Get help

“If you aren’t technically oriented, find a good technology partner,” says Alykhan Jetha, CEO of Marketcircle Inc. “Give them the information they need to configure your system. Good partners can extract the information they need even if you don’t have it handy.”

Customize where necessary

Depending on your practice area, you’ll need certain PM system tools and not others, so remove tools you don’t need and customize the ones you do to fit your practice.

Every six months, review your PM system to make sure it still fits your evolving practice.

Communicate with the vendor

“As a vendor, the greatest accolade I can get is not somebody buying the product, but somebody actually using it,” says Frank Rivera, CEO of LOGICBit Corporation. “The only way a product can improve is if users talk to the vendor.” ■

Practice Management



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