CHAPTER 9: LITIGATION SUPPORT SOFTWARE

CHAPTER OUTLINE

I. Introduction to Litigation Support Software
   A. Litigation support software assists attorneys in organizing, storing, retrieving, and summarizing information that is gathered in the litigation of a lawsuit

II. Information and Documents to Be Tracked in Litigation
   A. Litigation documents are prepared during the course of litigation (pleadings, depositions, notes/emails, etc.)
      1. Miscellaneous documents: notes, memorandums, and correspondence fall into this category
   B. Discovery Documents
      1. Interrogatories
      2. Requests for admissions
      3. Requests for production of documents
      4. Deposition
      5. Expert witness report
   C. Pleadings/motions/briefs
   D. Factual documents and electronically stored information
   E. Knowledge management

III. Why Litigation Support?
   A. In a typical case, it is possible to have hundreds of documents and electronically stored information in the file
   B. The legal system is adversarial in nature, so attorneys must always be prepared for the unexpected; they must be able to lay their hands on the information they need at the right time to win cases

IV. Manual Litigation Support Methods
   A. Manual systems usually have some type of an indexing system. Problems with manual litigation support systems include the following:
      1. They are time consuming and tedious because a single document may have many issues that need to be indexed
      2. The tedious nature of litigation documents causes manual systems to include limited information. Data kept manually is often not thorough and excludes key pieces of information
      3. They are only useful for simple searches because usually only one index is made instead of multiple indexes such as date, subject, and author indexes
      4. They are error prone due to misfiled index cards, lost index cards, etc
V. Overview of Computerized Litigation Support. Computerized litigation support solves many of the problems present in manual systems.

A. Benefits of computerized litigation support include the following:
1. Immediate retrieval of information stored electronically (CD-ROM, DVD, external hard drives, removable disk cartridges, etc.)
2. Sophisticated searches/queries
3. Control and organization of electronic documents
4. Ability to produce sophisticated reports
5. Highly flexible and adaptable
6. Ability to share information over long distances if necessary
7. Mobility of electronic data on CD-ROM, DVD media
8. Preservation and immediate access to information, strategies, and analysis

B. Litigation Support Service Providers. A litigation support service bureau is a company that sets up a litigation support system and enters all necessary documents for a case in its own computer for a fee.

C. External or Internal Litigation Support. An in-house computerized litigation support system uses a firm's own staff and computer to perform litigation support, whereas an external process uses an outside vendor to perform litigation support functions.

VI. Types of Computerized Litigation Support Systems

A. Document Abstract. Document abstract litigation support enables users to enter document abstracts or document summaries into a computer, and to subsequently search and retrieve information contained in the abstracts.
1. Many document abstract programs are set up like a database program. In fact, any database program can be used for document abstract support.
2. There are two primary ways of constructing a document abstract system.
   a. Objective/biographical
   b. Subjective coding
   c. Some common fields for document abstract systems include the following:
      i. Document Number
      ii. Document Title
      iii. Type of Document (letter, memo, etc.)
      iv. Date of Document
      v. Author of Document
      vi. Recipient of Document
      vii. Subject of Document and Physical Location of Document
      viii. Importance of Document (on a scale of 1–10)
      ix. Names of Persons Mentioned in the Document
      x. Description, Keywords, Notes About the Document
      xi. Source of the document (where it came from)
      xii. Issues
      xiii. Attorney comments
      xiv. Authenticated
      xv. Stipulated
B. Full-Text Retrieval Litigation Support System
   1. A full-text retrieval system enables a user to search and retrieve information contained in the full text of documents entered into the system. This is much like WESTLAW and LexisNexis where the user searches the full-text of cases.
   2. Unlike document abstract systems, full-text retrieval systems are not set up like a database. They do not have any type of fields or file structure.
   3. The full text of documents can be entered using the following:
      a. Optical scanners
      b. Keyboard/word processing
      c. Real-time computer-aided transcription
      d. Electronic discovery
      e. Service Providers, some of which allow a user to "rent" their trained personnel to enter data into the user's litigation support system

C. Document Imaging. With document imaging, documents are scanned into a computer (like a photograph). Disadvantages to imaging include having to scan the document into the computer, and accuracy of the scanned document can be a problem.

D. Case Management. Some case management software now includes features that assist with litigation support, including case diaries/notes, report generation regarding deadlines/appointments, and much more.

E. Analytical Litigation Support Software. Analytical software is a type of litigation support program that helps legal professionals to analyze a case from a number of different perspectives and to create cause and effect relationships between facts and evidence.

F. Integrated Litigation Support. Some litigation support software packages now come with document abstracting, full-text retrieval, imaging, and analytical tools all in one.

VII. The Litigation Support Process
   A. Determine whether the case justifies litigation support
      1. How many parties and witnesses are involved?
      2. How many issues are involved?
      3. How complex or difficult to grasp are the issues?
      4. How long is the litigation expected to last?
      5. How extensive are the damages?
      6. Is the case expected to settle out of court?
      7. How many documents have been produced and must be tracked?
      8. Is the opposing counsel automating?

   B. Design the system and plan the project
      1. Which type of system will be used?
      2. What kind of information should be entered?
C. Code the documents and enter the data or convert the ESI
   1. How the information will be entered into the system
   2. The use of coding rules should be encouraged to keep the staff from "guessing" when entering information
D. Searching and retrieving the information
E. Print the search results

VIII. Searching and Retrieving Litigation Support Data
   A. Single-word search
   B. Wildcard search
   C. Boolean logic searches
   D. Proximity search

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