Timothy Gauthier
TOFER & ASSOCIATES, PLC

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Don't wait! Today's technology can revolutionize your practice

FORGET WAITING ON "AI", HERE'S THE TECHNOLOGY YOU CAN PUT TO WORK TODAY TO AUTOMATE YOUR PI PRACTICE, MOTOR VEHICLE CASES IN PARTICULAR

Motor Vehicle Accident ("MVA") cases are the bread and butter of plaintiff's personal-injury work in California. Beyond their prevalence and the insurance coverage, part of the allure seems to lie in the predictability of the case development and litigation process. Most personal-injury attorneys can recite almost word for word the litigation process for most MVA cases. This pattern, simple yet elegantly systematic, has undergone minimal evolutionary changes in our lifetime. In fact, most adaptations only arise from new judicial precedents – a process that moves slowly enough that even the most engaged legal practitioner is hard pressed to actively track it.

However, the landscape of our field of practice is rapidly undergoing an unprecedented evolution due to the emergence of recent technologies in the form of case-management systems, litigation-support software solutions, and most recently, Artificial Intelligence ("AI"). While everyone seems to be eagerly awaiting the transformative impact of AI, the reality is that most small law firms have yet to fully or even partially leverage the more accessible technological solutions that are already available to them. Solutions that are already on the market offer a well of untapped potential for efficiency and increased quality of work product that can radically reshape the operations of a law firm and contribute to its success and growth. While the benefits of integrating technology across an entire firm's operations are worth discussing, this article concentrates on what I know best: the automation of personal-injury litigation.

Between case-management systems and other third-party solutions, the market is already full of software solutions with the potential to equip even a solo practitioners with the capacity to revolutionize their litigation practices. With a little investment in feature development and staff training, these systems can yield exponential returns in terms of time savings, efficiency, accuracy, and superior application of legal strategy.

While the convenience of these solutions contributes to their appeal, the crux of their value lies in their promise of moving toward two objectives dear to every true plaintiff's advocate: maximizing the client's recovery and accelerating case resolution without compromising quality of representation. Despite the commonly stated desire to achieve these goals, many firms face challenges in finding and adopting practical, scalable, and easily implemented solutions. If a law firm has not yet incorporated and expanded these readily available software solutions into its practice, it is unlikely to do any better with the implementation of AI in the future. More importantly, those who fail to evolve will be hard pressed to keep up with those who have. So, as we all stand on the cusp of the AI revolution, let us not overlook the transformative potential of the tools that are already at our disposal.

Case-management systems

These systems are exceptional resources our predecessors could only have dreamt of. Gone are the days of hauling paper files across offices, claims of not receiving documents, and staff members denying having been assigned tasks. These powerful tools present capabilities to enhance a firm's litigation practice that are often completely unexplored. While many firms are using the basic, vanilla "out-of-the-box" versions of these systems to track intakes and keep a record of communications and case activities, there is still a sea of untapped potential below the surface that could be reached by dedicating time and effort to developing additional features and training staff. This relatively small investment can yield exponential returns in time savings, efficiency, accuracy, and the better application of legal acumen. While the ways that these systems can be leveraged are almost limitless, I have found the below solutions to be the most helpful.

Task management

Most case-management systems enable administrators to create pre-structured task lists ("task flows") resulting from a single-button-click event, assign them automatically to the correct attorneys and staff members, and oversee their execution. The benefits of taking the time to create these task flows for litigation are multifaceted: ensuring no necessary steps are missed; providing a more intuitive way to train new people by integrating relevant case laws, explanations, and tactics into each step; centralizing policies that can be updated instantly and pushed to all relevant users in the future, and providing a living, breathing litigation manual with an institutional memory that all attorneys and staff members can contribute to.

The initial time investment in setting up these task flows is far less than one might think, but that time and the time spent evolving it in the future are some of the best investments you can make in your litigation practice. It will enable you to spend less time training your employees, managing them, and double-checking to determine whether necessary steps are taken. Furthermore, having a

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structured task set for each step of litigation allows you to accurately track the status of all your litigation cases with a bird's eye view. MVA cases are almost absurdly well-suited for the implementation and application of these task flows as even an inexperienced litigator can draw a crude map of the various steps and stages of litigating an MVA case, and once you have that, all that is left is to add it to your system.

Templated document generation

This is a critical yet largely underutilized function for most litigation departments. Most small firms have not yet invested the time and effort necessary to create usable templates for their litigation attorneys, and these firms are daily paying a hefty price for this lack of investment. Much like the advent of repeating firearms revolutionizing warfare, the ability to rapidly draft and serve pre-written pleadings, discovery, and motions can drastically alter a firm's ability to affect the outcome of their cases. While the time invested in setting up this function and the corresponding templates is far from slight, the dividends that come from such an investment are immense.

Pre-templated discovery requests for every MVA type, Deposition Notices, objections to Notices of Deposition and Notices of Medical Exams, and all the various notices and court forms that we utilize on a daily basis can be quickly added and encoded into our case management programs once the foundations are set. Once added, each template will dramatically decrease the time spent on these time-consuming tasks, even if only to serve as a first draft.

Indexed medical treatment

By collecting all relevant data points regarding the client's appointments, templating record requests and tracking the status of those requests, not only can an attorney understand the status of treatment at a glance, but a records department can be provided with a comprehensive list of all missing records for retrieval, and templated records request letters. With this information available, you can export it to suit any format you like.

Third-party products

Beyond case-management systems lies a field of more specialized tools that are awaiting the right hands to wield them. Briefpoint.AI and EsquireTek streamline the drafting of discovery responses, a task often dreaded by litigators. Similarly, Gavel.io assists in automating the drafting of virtually any legal document beyond the basic templates available in the case management systems, providing exponential time savings.

It merits mention that along with their already valuable functionality, case-management systems also provide savvy and diligent litigators with a structured, up-to-date repository of organized and indexed information, from which client information can be drawn, reformatted, and channeled into other systems and software solutions at will. With open API tools like Zapier.com, even the most technophobic litigator can begin crafting off-the-market solutions that will automate and optimize their data management and litigation processes so that no task is ever done twice.

Cost of setup

Although the initial time investment in setting up some of these solutions can seem overwhelming, it is difficult to find an example of a solution that would not be worth the effort. Once you have a solution implemented, it will continue working for you, night and day, accurately and diligently. I think of these solutions as my most diligent and most cost-efficient team members, and they always do what they are told.

Your initial time investment will inevitably be swallowed up by the value these services add to your firm. The monetary cost of these solutions may seem daunting; however, if you weigh the time savings to your employees and calculate the wages you are no longer paying for the performance of the same tasks, the costs for these services quickly seem reasonable, even generous. All of the above referenced solutions share a common trait: *Their value directly corresponds to how consistently they are incorporated into your practice*. Training for staff and attorneys is a must, and if mandatory usage is desired, appropriate policies and enforcement mechanisms must be established. Nevertheless, it is an investment well worth its cost. And by the inevitable effect of consistent accrual over time, you will always save more time as a result of the integration than you will expend in the integrating.

The benefits

Beyond helping you scale up the cases you send to litigation, embracing technology will provide you with methods to litigate more aggressively and reduce the time and monetary cost of going to trial, these tools also open doors to novel litigation strategies and business models. Most prominently, as the time and effort cost of litigating cases goes down, it begins to make more sense to litigate cases that before would not have made sense for the client due to the historically prohibitive costs of litigation. Marrying these cases with the technology solutions already discussed provides interesting opportunities.

New strategies made possible

Serving discovery and notice of deposition ASAP

While it is by no means a new tactic to serve discovery at the 10th day after service, and a notice of deposition for the defendant on the 20th day after, having those dates automatically calendared and the templates instantly generated makes it far simpler to ensure that this happens in a timely fashion. This not only makes possible a goal that we all have to get these important documents out the door according to this timeline every time, but it makes it relatively easy to accomplish.

Serving multiple sets of discovery

Any litigator, plaintiff or defense, can manage to draft and serve an initial set of discovery. But having your

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requests templated and deadlines automatically generated means it is far easier for you to send a second initial set of discovery, requests for supplemental responses, or even pointed follow-up discovery using pre-drafted blank shells. It is a rare situation where your client's interests would not be better served by serving more discovery. And if you are able to workflow your meet and confers and discovery motions, you will be able to better seek out the existence of and force the defense to turn over the information and evidence that you desire.

Long-fuse 998

Serving a CCP 998 demand for reasonable value and providing a large concurrent extension can be a beneficial strategy. By giving the defendant ample time, typically 150 days from the date of service, to complete necessary discovery and make a well-informed valuation of the case, a discerning litigator can strengthen the validity of an early CCP section 998 offer.

Pursuant to *Elrod* and *Barba*, a 998 is made in good faith when a defendant either had the information necessary to evaluate the demand, or reasonably could have obtained the information by the time the 998 expired. (*Elrod v. Oregon Cummins Diesel, Inc*. (1987) 195 Cal.App.3d 692, 698-70.) And pursuant to *Barba*, a 998 served before the defendant was in possession of the minimal information necessary to evaluate the claim could still be in good faith if the defendant could have requested an extension and failed to do so. (*Barba v. Perez* (2008) 166 Cal.4th 444, 451, 82.)

This strategy prevents the defendant from claiming a lack of information to consider the demand, thus promoting meaningful settlement discussions, gives them a reason to hasten their discovery process, and encourages early resolution of the case. And in the worst-case scenario, you have an early 998 accruing interest.

When served at the first opportunity with your initial discovery and notice of deposition, (drafted simultaneously with your template generators,) this long-fuse 998 can be the hard tip of a very convincing first shot over your opponent's bow.

This tactic is most suited to cases where the client's treatment has stabilized pre-filing, and thus you are positioned to assess the case value and provide the necessary documents to support your valuation. MVA cases are particularly well suited for this tactic as liability tends to be easier to assess than in other more complicated injury cases.

Setting up every case for RFA cost-of-proof sanction recovery

By automating the process of drafting requests for admission drafted around the verdict form, and work-flowing the meet and confers and motions to compel further responses, you can easily set up each case for RFA cost of proof sanction recovery under Code of Civil Procedure section 2033.420. As we know, we do not have to win the lawsuit to be awarded cost-of-proof sanctions. (*Smith v. Circle P Ranch Co., Inc.* (1978) 87 Cal.3d, 267, 276.) This tactic is an easy and low-cost way to bring added pressure to bear on the defense, and provides one more argument that a mediator can use to pressure the defense to settle.

Automating trial docs

Automation of trial documents such as exhibit and witness lists, and motions in limine ensures a more organized and efficient preparation for trial. It can also significantly reduce the time spent on drafting, revising, and organizing these crucial documents, dramatically reducing the cost and manpower expenditure of going to trial. By removing disincentives to taking a case to trial we put ourselves in a much more powerful negotiating position.

Conclusion

We live in an era of remarkable potential for litigators. These solutions provide constant opportunities for innovation, refinement, and enhancement, key components in a field where speed, comprehensiveness, and efficiency often determine outcomes. While the application of these tools is certainly
not limited to plaintiff MVA cases, the inherently formulaic nature of most MVA cases makes them particularly well suited for the application of these tools, enabling levels of previously unimagined efficiency, and with that the implementation of strategies that were never before feasible to be deployed on a mass scale. When experimenting with these and other solutions, imagine yourself as the architect of your own weapons factories, outpacing opponents who are still painstakingly handcrafting blunt
weapons.

It is important to understand that the effective implementation of these tools is not a one-off event. Rather, it requires an ongoing effort as well as an evolution in how we think about our practice. As we strive to improve, we must remember the wisdom of the phrase, "Don't let perfect be the enemy of good." The fear of doing something new poorly often is the only actual barrier to our actually taking a step towards the future, and the technical knowledge can be learned along the way.

Entering this new phase of legal practice doesn't have to be a daunting leap. It's an exploration of possibilities, equipping your firm with tools that can improve your competitiveness and adaptability in a complex legal environment. These innovative solutions offer more than just an upgrade in your processes; they help us meet our commitment to the pursuit of justice. And capitalizing on the potential of these tools is a strategic move towards a more streamlined and effective practice and more effective representation for our clients.

Timothy Gauthier is an attorney at Tofer & Associates, PLC. *He graduated from Southwestern Law's two-year program in 2016. Before joining the plaintiff bar, he worked as an insurance defense attorney.*