

# The Role of Computers in Paralegal Education: Litigation Support

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Most paralegal graduates will be involved with litigation at some time in their careers, and a large percentage will spend their entire professional careers exclusively in a litigation department. Computers are being integrated gradually, but enthusiastically, into the process of managing documents in preparation for trial. Even cases with a few hundred rather than many thousands of documents are now being considered good candidates for computerized treatment.

Since employers are now regularly asking prospective paralegals if they have any computer skills in this area, it is our duty as educators to provide our students with at least introductory skills.

In my opinion, as an educator who has trained paralegal students in computer skills for many years, the following are the basic areas that must be covered:

- a. How to use a computer to organize documents for trial.
- b. How to handle depositions which have been transcribed by computer.
- c. How to track cases with a computer.
- d. How to use a computer to perform a variety of other support tasks such as projecting damage estimates, evaluating pensions, and preparing trial exhibits.

All of these skills can be introduced through lecture and reading, but most importantly they can be learned by hands-on laboratory exercises. Here are some ideas on how to present these areas.

## 1. Organizing Documents

### *a. Hardware and Software*

The real catalyst for the great rush to computers in litigation is that the price of computer hardware and software has plummeted drastically while the power has shot up dramatically. It is now possible to organize a case

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with 10,000 documents on a desk top computer; this task was previously a job for a professional vendor with a mainframe computer.

At current writing, any litigation matter with a number of documents up to at least ten thousand can be efficiently handled by an IBM AT or clone with a thirty megabyte hard disk. This change puts the hardware in the comfortably affordable \$4,000 range. For software it is possible to use a general data base management system in the \$500 range. The favorites in law firms that I have observed are dBASEIII PLUS, R:BASE System V, and InMagic.

All data base management systems offer much greater powers of retrieval than manual means. For instance, with most manual systems designed to control huge numbers of documents, the documents can usually be retrieved by one to four different criteria, usually author, date and perhaps subject. Therefore, instead of being able to retrieve a memo written by John Brown on May 1st, by date, author or type of document, the paralegal or attorney can retrieve that same document by any number of specific references such as a memo written by John Brown between March 2nd and March 10th, a memo written by John Brown that contains the words *auto sale*, or a memo written by John Brown that contains the words *auto sale* wherein Tom Edwards is mentioned and a reference is made to a sales agreement dated April 12th. Multiply this document by 100, 1000, 10,000 or even 50,000, and the value of computerization becomes quite evident.

It is also possible to use a fully prepared litigation support software package rather than a general data base management system. There are several on the market now and more waiting in the wings to be distributed. The best known in this area are Litigation Manager II (Institute for Paralegal Training) and Evidence Master (San Francisco Legal Systems).

### *b. System Design*

Ideally, a trial team is formed consisting of attorneys, paralegals, and other support people who may be working on a particular case. It is the collective effort of this trial team that decides what kinds of information will eventually be needed and how this information should be organized.

In fact, it is often the paralegals who are called upon to organize the documents, with relatively little guidance from the attorneys who will be trying the case. As with all system designs, you must first sit down and think through the problem. What kinds of information do you need to prove your case? The kinds of documents you may need to collect for trial could cover a wide range:

- A. Produced Documents (your side) may take any form, such as payroll accounts and psychiatric reports.

- B. Discovered Documents (their side) may also include any imaginable document.
- C. Physical Exhibits
- D. Witness Lists
- E. Medical Reports
- F. Attorneys' Work Products
- G. Relevant Materials from other Cases

This short list is just a few of the kinds of information that you might need to collect in an ordinary trial.

Once you have collected the information, you must figure out how to organize it in a manageable form. Do you need one data base or two or more? *Data base* is the term for an organized body of information. For instance, in a trial regarding toxic poisoning, one data base might be composed exclusively of medical reports, and another data base may include critical filing deadlines for the many plaintiffs involved.

Generally speaking, it is best to develop a large data base which includes a variety of different documents so that you can search them all at one time. For instance, if you were collecting both medical records and employment information on each of the plaintiffs, you could make one search to determine the relationship between the dates of employment and the occurrence of the symptoms of chemical poisoning.

A general data base management system, like R:BASE System V or the others mentioned above, is totally open ended and flexible. You can structure your data bases any way that you wish. The disadvantage is that it takes some training in order to use these software systems proficiently. They are, however, becoming more and more user friendly. The alternative, commercial software programs specifically set up to organize documents in preparation for trial are far easier to learn. The disadvantage with these prepared programs is that they have determined how to organize the information for you and leave you no flexibility to design your system.

In training paralegals, I believe it is far wiser to train them with a general data base management system. Not only does it give them more flexibility for controlling documents in preparation for trial, but they can use the data base management system for many other law office applications as well. A data base management system works well for calendaring, case tracking, in-house work products indexing, conflict of interest systems, and general case file indexing. In fact, a data base management system is one of the most useful computer tools that one can learn for managing information in a law office.

All data base management systems have many common characteristics. Once you have determined the nature of your data base (e.g., medical

records or general documents), you set up a field structure, which specifies the categories of information that you want to organize. An example of a structure for a general document data base might look like this one:

NUMBER  
AUTHOR  
PARTIES  
DATE  
TYPE  
PRODUCED  
DISCOVERED  
EXHIBIT  
LOCATION  
XREF  
KEYWORDS  
COMMENTS

Most of these fields are self-explanatory. The Keywords field is also an issues field where the particular issues contained in that document are noted. The XRef field refers to other documents that are mentioned in this document or are in some way related to this document. The Comments field may include any additional information that you wish to add about this case.

Once you have established your field structure, you begin data entry. The data are entered record by record, which means each document will represent an individual record. The person who enters the data must develop or follow a controlled vocabulary so that the information will be entered absolutely consistently, and the person retrieving it will know exactly what terms have been used. In very large cases, it may be necessary to assign number codes to issues and names, but in smaller cases abbreviations may be sufficient. In small cases, it may be possible to enter a document into the computer. In larger cases, a document coding form, where the information is entered onto a form manually and later entered into the computer, may be necessary.

### *c. Student Training*

If you have access to a student computer lab, you can formulate document management exercises on any microcomputer (with or without a hard disk) which can support MS-DOS software. Using any of the data base management systems mentioned, it is quite possible to give your students a small data base which includes, for instance, ten medical records or an assortment of documents ranging from invoices to letters, and to guide them through the process of system design and data entry.

Once the data have been entered into the data base, indices and reports

of all kinds will be generated at various points in the trial procedure. Students should be aware of the many possibilities for retrieval of the information. This demonstration can be done even using a small data base. For instance, all documents can be retrieved in chronological order; they can be organized by type of document, by author, or by any other specific issue that might be useful in getting ready for trial. Witness Smith can be prepared for her testimony at trial by generating an index that lists in chronological order all the documents that mention her name.

Information retrieval commands will vary depending upon the software that you are using. Generally, however, all data base management systems will use some form of Boolean operators. The use of this operator means that you can retrieve information not only by specific words or terms, but by combinations or sets of fields. The main connectors are: and, or, but not. For instance, you can retrieve all the documents where Witness Smith and Jones are mentioned, or all the documents where either Smith or Jones is mentioned, and lastly all the documents where Smith, but not Jones, is mentioned.

These combinations of information retrieval give you great flexibility in using the information you have painstakingly gathered and entered into your data base. Programs specifically designed for litigation support do not allow this great range of retrieval.

Most often the attorney working on the case will want to see the information displayed in a proper report fashion. He or she may not be capable of reading the raw data as you retrieve them. Virtually all data base management systems have some kind of report form, and students should be instructed in generating simple reports.

## 2. Computer-Assisted Deposition Transcription

There have been major breakthroughs in use of computers for deposition transcripts. Previously, it was possible to search the full text of a deposition through the services of specialized vendors who used a mainframe for transcribing the depositions. Now there are several competing companies who provide a floppy disk with the full text of a deposition transcript for use on a microcomputer. Therefore, it is now possible to search depositions, full text, in the same way that a student searches case law with *Lexis* or *Westlaw*. Some of the current leading vendors of search and retrieval software in this field include DepoBank (TextSciences Corporation), Discovery (Data Dynamics Corporation), and Amicus I (Baron Data Systems).

Since paralegals often are asked to summarize depositions as a major part of their employment, some practice time with these revolutionary new computerized deposition full-text search systems is highly recommended.

There are also computerized alternatives to the full text approach. A general data base management system will allow page and line summarization very similar to the traditional manual method. In this instance, the paralegal will enter the information into the computer rather than simply typing out the summary. By this means, retrieval is far more flexible than with manual methods, and it is also possible to have a hard copy (paper) of the summary, which the attorney can peruse. Many attorneys still prefer this variation on the traditional method to full-text retrieval, in part because they are accustomed to it.

### 3. Case Tracking

In any litigation matter, particularly one where there are multiple parties on both sides, it is critical that one keep track of parties, attorneys, rulings, and court dates. As with document organization, there are alternative computer approaches. There are many Calendar/Schedule/Docket Control software packages specifically designed for the legal profession. These include Information Systems for Attorneys (IBM) and the Precedent (Tandy/Radio Shack). Some of these automatically update future dates when a continuance or change is entered, and some are already programmed with statutory filing deadlines for actions such as probate.

For many law offices, and for many cases, these packaged systems will not provide enough flexibility. For example, it is not possible to keep track of parties not represented by your firm in a multi-party suit. Once again a general data base management system can keep track of any kind of information you wish to organize and can retrieve it in many more forms.

Students should be introduced to both possibilities and, perhaps, required to design a simple calendar/docket data base using a general data base management package.

### 4. Other Computer Applications

Organization and management of documents and dockets are by no means the only ways in which computers can be useful in preparing for trial. Obviously, the work involved in taking a case to trial will include many other activities such as legal research, timekeeping and billing, factual research, and generation of pleadings and documents. All of these functions can be handled far more efficiently with the computer than by manual means.

One particular computer application, electronic spreadsheets, is strikingly successful with certain kinds of litigation. In the area of personal injury suits, the question of future damages over months or years is often the bone of contention. A spreadsheet will allow you to conjure up dif-

ferent scenarios. You can make projections based on your client's being out of work for two months, for twelve months, for three years, etc. These projections can be most useful for purposes of settlement or trial. Spreadsheets are also effective for pension projections in divorce cases, damage projections in contract disputes, and financial management of cases. Spreadsheets may not be the first litigation support system you teach paralegal students, but their use certainly can be considered an advanced skill.

### **The Big Picture**

You cannot teach computerized litigation support in a vacuum. Students must first of all understand the fundamentals of the litigation procedure and have some manual experience in organizing documents and depositions. In addition, students should have mastered basic computer literacy and preferably other computer skills, such as computer-assisted legal research and word processing before they are introduced to the somewhat more complicated functions of computerized litigation support. There are several ways of integrating computerized litigation support into your general paralegal curriculum. The following are possible models.

#### **1. A complete course in the management of complex litigation**

This course would begin with the traditional manual methods that are still used in the majority of offices. The bulk of the course would focus on organizing documents with computers. Hands-on laboratory exercises in designing a system, data entry, data retrieval, reports, and free text searching of computerized deposition transcripts would be required. Ideally, students would be introduced to more than one software program, which might include a general data management system like dBASE III PLUS and a specific litigation support package like Evidence Master. This course would also include computerized case tracking with a general data base management system. An introduction to spreadsheets might also be included. In addition to the laboratory exercises and accompanying lectures, demonstrations could be arranged from vendors. Representatives of the large litigation support services like American Legal Systems and Informatics will often come to the classroom to demonstrate how the very large cases, with millions of documents, are managed. These cases are all handled in a mainframe timesharing environment, where the paralegal function is limited to data entry and retrieval. The company is responsible for system design and data entry.

Offering a full course in computerized litigation support assumes that the student has already been introduced to computers in some other course. At least basic computer literacy and some introductory hands-on

practice must be a prerequisite. It also assumes that the student has had at least one course in litigation procedure.

## 2. A course in computer applications in the law

Many programs do not have unlimited curriculum offerings. It is often hard to fit in all the necessary legal speciality courses, and a separate course specifically in computerized litigation may be out of the question. This topic can, however, be treated as one component of a general computer applications in the law course. This class would, of course, reduce the amount of attention that could be devoted to computerized litigation, but at least, an introduction to using a data base management system for managing documents and summarizing depositions should be offered. If there is neither time nor money to include full-text deposition retrieval, it is possible to invite vendors to demonstrate their products in this area.

## 3. Part of a litigation or civil procedure class

If your school does not have the facilities for on-hands computer training, as a bare-bones minimum students should be introduced in their general civil procedure class to the concept of computerized litigation support. This instruction could be a combination of lectures and demonstrations from vendors. It is surely not the best solution, but it is far better than complete ignorance of this fast-growing important area.

Finally, it must be emphasized that litigation and computers are inevitably linked in the future. Paralegals are going to be the largest computer users in litigation since they have traditionally been the facilitators of document management and retrieval. It is, therefore, imperative that paralegals receive computer training in this area as a basic and fundamental skill.