

LITIGATION TECHNOLOGY FOR COURTS

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PART I: MANAGING COMPLEX CASES

I. IDENTIFYING THE NEED

A. Complex Case Characteristics

1. Components

a. Multiple parties

- (1) individuals
- (2) organizations
- (3) license applicants; and
- (4) State and local governments

b. Large records

- (1) 10,000 pages or more of transcript and prefiled testimony
- (2) Numerous and extensive exhibits
- (3) Extensive motions and pleadings
- (4) Massive motions for summary disposition

*The opinions of the speakers are not necessarily those of the U.S. Nuclear Regulatory Commission.

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- c. Heavy expert opinion component
 - d. WRITTEN DECISION REQUIRED
 - e. Time limit on decision
2. Other factors
- a. Proceeding controversial in the community
 - b. Strong public concerns/fears
 - c. Large sums of money at stake
 - d. Political issues
 - e. Specific impact on many people
- B. Some examples of complex cases:
- 1. Hospital litigation over the legitimacy of billings for thousands of patients under state or insurance reimbursement programs
 - 2. Large construction project litigation
 - 3. Mass transit accidents involving multiple deaths, injuries, and defendants
 - 4. Environmental litigation involving multiple property owners
 - 5. Product liability cases; and
 - 6. Public interest issues (e.g., school redistricting or busing)

II. COMPLEX LITIGATION MANAGEMENT PROBLEMS

- A. Some people problems
- 1. Managing multiple attorneys and parties

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2. Your secretary (especially if you must write lengthy decisions on summary judgment or the case itself)
3. Multiple witnesses (cross-examination)

B. Some paper problems

1. Controlling and searching massive records
2. Tracking multiple claims for relief.
3. Finding documents at trial
4. Drafting lengthy decisions

C. Some legal problems

1. Extensive legal research
2. Accuracy and completeness of decisions
3. Findings of fact and conclusions of law

III. THE PERSONAL COMPUTER SYSTEM: POTENTIAL BENEFITS
DEMONSTRATED

A. In Chambers

1. Legal research expedited: LEXIS/WESTLAW
-- 84% time savings!?
2. Expedite written ruling on motions
3. Expedite decision writing
 - a. Greatly reduces writers' block (Cyberphobia vanquished by the last great adult toy)
 - b. Expedites drafts

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- Revised, more complete drafts the first time
 - and more quickly
 - Judge, law clerk, and secretary work on parts of decision simultaneously
 - word processor connection ("hard wire") or typed drafts
- c. Electronic filings: Eventually all filings can be done by telephone, particularly where time is of the essence
- NOTE: Now incompatible personal computers (as distinguished from mainframes) may require filings in ASCII
4. Full, complete and immediate record access
 5. Greatly shortens length of time to disposition (reduced or eliminated time allowance for mail)

B. In Court:

1. Reduce court appearances for routine motions
 - a. Lawyers file simultaneously from offices and Judge rules in chambers (Atlanta experiment)
 - b. NOTE: Requires compatible equipment -- or filings in ASCII
2. Terminals in Court (The Detroit Experiment)
 - a. Instant visually displayed transcript
 - (1) expedites bench rulings
 - (2) reduce or eliminate attorney fumbling for materials

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- b. Expedite rulings on documentary evidence
 - simultaneous video display for Judge and all parties
- c. In the Jury Room:
 - 1. Access to transcript and exhibits
 - 2. Access to jury instructions
- d. Overall
 - 1. Vastly increased judicial control
 - 2. Greatly decreased courthouse stress
 - 3. Reduce length of time on docket

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PART II: DOCKET AND MANAGEMENT

- I. DOCKET
 - A. PC System or Mainframe System
 - B. Software
 - 1. PC -- Magellan
 - 2. Mainframe -- INQUIRE
 - C. Creating the Data Base
 - 1. Preparing headers
 - Time:
 - (a) Analysis: 2-3 minutes
 - (b) Entry: 2-3 minutes
 - 2. Indexing headers (5-10 minutes)

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3. Searching

D. Benefits

1. Preparation time -- same

2. Searching

a. Headers

b. Full text

II. MANAGEMENT

A. Statistics

1. Number of filings (dBASE et al.)

2. Type of filings

3. Length of time to disposition

a. By type of case

b. By subcategory of case

B. Management/forecasting

1. By individual judge

2. By entire court

C. Enjoy Budget Time

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PART III: SOME COSTS AND CONFIGURATIONS

I. WHERE TO START AND SOME COSTS

A. Basic systems

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	<u>ITEM</u>	<u>ESTIMATED COST</u>
1.	a. Personal Computer with 20 megabyte hard disk (stores ca. 10,000 pages) (GSA - 286 price) (40 megabyte, ca. \$2,700)	\$1,800.00
	b. Letter Quality Printer	600.00
	c. Software: Word processing program	<u>250.00</u>
	TOTAL COST	\$2,650.00

BENEFITS: III.A. 2., 3., and 4. above.

2.	Add:	
	a. Modem	+ \$ 400.00
	b. LEXIS/WESTLAW	
	-- Subscription	75.00/Month
	-- Online usage	60-200.00/Month

BENEFITS: III.A. 1., 2., 3., and 4.: II.B.1.

	<u>ITEM</u>	<u>ESTIMATED COST</u>
3.	Add:	
	a. Secretary's PC	+ \$1,400.00
	b. Local area network cost (3)	+ 1,250.00
	c. Laser Jet Printer	+ 1,500.00
4.	Add:	
	a. Law clerk PC	+ 1,400.00
	b. Local area network cost	+ 475.00

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5. Add:
- | | | |
|----|--|------------|
| a. | COMPAQ 386 (60 mb) | + 4,500.00 |
| | or | or |
| b. | COMPAQ 386 (120 mb) | + 6,000.00 |
| c. | Full Text Word Search
Software (Magellan,
ZyINDEX) | 700.00 |

- NOTES:
1. Costs continue to decline at the same time capability soars. Above equipment cost 2 to 3 times more just three years ago and had less than 1/4 the capacity.
 2. Learning time for word processing is about a month at one hour a day for a non-typist. One or two-day course highly recommended.

II. HOW TO DO IT

- A. Turn it over to your law clerk/court clerk
- B. Have one or more of the parties in a big case give it to you
1. The Florida experience
 - a. Damages phase after liability
 - b. Portable PC with LEXIS hookup
 - (1) instant legal research
 - (2) orders
 - c. Judge regained control of case
 2. Prejudice? Judge's duty to the case
- C. Piggy back on existing system

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1. Docket/administrative management computers
 - a. Dumb terminal and remote printer
 - b. PC and remote printer
 2. Legal research
 - a. If Courthouse has law library with LEXIS or WESTLAW get hookup to chambers
 - b. If Bar Association legal library has LEXIS or WESTLAW seek hookup
- D. Seek support from other judges/administrators in both your court and others
- E. Seek help from State executive agencies
- F. Long Term: Get line item in budget

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PART IV. CONCLUSIONS

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PART V: THE FUTURE

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A LIMITED BIBLIOGRAPHY OF
PRACTICAL COMPUTER INFORMATION

1. Bulletin Court Technology Bulletin, National Center for State Courts, 300 Newport Avenue, Williamsburg, VA 23187-8798 Telephone: (804) 253-2000 Ext. 343

2. Mason, Mary Ann An Introduction to Using Computers in the Law, (West Pub. Co. 1984) 166 pp. plus appendices.

 Comment: Very readable, very practical. Law office oriented but very useable for complex case background.

3. Bohl, Marilyn Information Processing (4th ed. 1984), published by Science Research Associates (SRA), a subsidiary of IBM. 558 pp.

 Comment: SUPERB! Extensive pictures and illustrations; easy to read; tells all painlessly.

 Companion volume, Telecourse Guide. 255 pp.

4. Report "Report on Use of Computers and Full Text Records." Write: Nancy Brockway, Senior Staff Attorney, Maine Public Utility Commission, Station 18, Statehouse, Augusta, Maine 04333.

 Comment: General applicability: vital subject.

5. Diebold, John Managing Information, The Challenge and The Opportunity (AMACOM, a division of American Management Associations, 1985). 121 pp.

 Comment: Valuable background. What's happening in the computer information explosion, developing problems, possible solutions.

6. Cotter, B. Paul "The Electronic Judge Meets the Electronic Lawyer", The Judges Journal (Spring, 1988)

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EDUCATION: Princeton University A.B. 1959
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PROFESSIONAL:

1980 - Present Chief Administrative Judge, ASLBP
U.S. Nuclear Regulatory Commission

1976 - 1980 Chief Administrative Judge (1979-80), Department of Housing
and Urban Development Board of Contract Appeals

1974 - 1976 Trial Attorney, U.S. Coast Guard, U.S. Department of
Transportation

1968 - 1974 Private Practice: Dechert, Price & Rhoads, Phila., PA;
Kater, Worsley, Daniel & Hollman, Washington, DC

1966 - 1968 Law Clerk, Honorable John Lewis Smith, Jr., Judge, U.S.
District Court for the District of Columbia, Washington, DC

SELECTED PUBLICATIONS: "When the Electronic Judge Meets the Electronic Lawyer," ABA
Judges' Journal (Spring 1988). "Dramatization of a Trial
Under the Contract Disputes Act of 1978," Public Contract
Law Journal, Cotter, et al. (Feb. 1983). "Nuclear
Licensing: Innovation Through Evolution in Administrative
Hearings," Administrative Law Review (Fall 1982).

PROFESSIONAL
ACTIVITIES:

American Bar Association: Judicial Administration Division
(Chair, various Committees); Sections on Public Contracts
and Administrative Law; National Conference of
Administrative Law Judges (Executive Committee: 1983-86)

Federal Bar Association (1971-) Member, National Council;
Chair, Judiciary Section (1988-). Member of the Bar:
District of Columbia, Virginia, Pennsylvania and
U.S. Supreme Court

President/Founder, Prettyman-Leventhal American Inn of Court
(1988-)

Faculty, The National Judicial College (1983-)

Member, D.C. Circuit Judicial Conference (1983-88); American
Law Institute (1988-); BCA Judges Association (1976-)

MISCELLANEOUS: Who's Who in American Law; Who's Who in America

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