

# **What Is All this Technology and What Am I Supposed to Do With It?**

## **A Primer for Insurance Litigation Executives**

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### **Introduction**

Today's insurance litigation managers are presented with a staggering array of technologies, intended to make their lives easier, their work more productive and their business relationships stronger. Choosing among these technological tools can be a daunting task.

Yet successful litigation managers --- those that stand out in the industry --- readily embrace these new technologies and aggressively manage the process for identifying, selecting, and implementing these new tools.

Litigation managers today can collaborate with their outside counsel like never before. Jointly, claims managers and firms can establish and manage budgets, create forecasts by claim type and office, delegate tasks to one another and calendar joint claim activities. Litigation managers can also electronically access and review discovery materials via streaming electronic media. Carriers can share, edit and revise documents collaboratively with their external firms (and internal teams) on specific claims or groups of claims and create best practices libraries that strengthen the litigation group's knowledge management programs. In short, there is an abundance of readily available information designed to improve decision making for those who embrace the new technology.

Litigation managers know more about their firms (or internal staff counsel) than ever before as well. They can identify their top 50 billing attorneys (those that work the most on their claims) with a click of a button. Litigation managers can compare how firms use their legal resources and how those practices impact case results. They can compare the average fees and expenses by firm, by type and severity of claim. They can identify who uses partners when another firm uses associates, determine which firms proactively focus on and, of course, they can identify which firms adhere to established billing and engagement guidelines and which do not.

These are just some of the technology solutions available today; there are of course many, many more. This article will provide an overview of how to approach current technology offerings, how to align them with your own vision, and how to maximize your personal and company successes when implementing them.

### **History Lesson #1: A Brief Overview**

A brief and high-level history of technology in the insurance industry is helpful to understanding the current environment within which most insurance litigation managers operate today.

Emerging from two decades of legacy, main-frame and silo-based systems that could not communicate with each other or external systems, carriers expended significant resources in the 1990s and first few years of this decade focused to upgrade their agency management and distribution systems (rate, quote, bind, issue). Driven by competition, a soft market, a need for more efficient underwriting processes and better communication with agents and distribution networks, carriers spent significant resources buying or building better underwriting systems.

Not all of these technology initiatives proceeded smoothly. There are many examples of significant delays or cost-overruns while our insurance companies worked to revamp the technology supporting its underwriting operations. In a generally risk-adverse industry these historical challenges created some cynicism regarding the benefits promised by technology providers (and the personal risk of sponsoring large technology initiatives). However, in today's competitive insurance marketplace and with the more stable and proven technologies available, many have recognized that the real risk is failure to take advantage of the financial, strategic and operational benefits these solutions offer in the litigation space.

During this focus on underwriting system development, claims and litigation management systems frequently lagged behind. With distribution systems upgraded, however, many carriers have turned to upgrading their claims systems, either through an extension of their underwriting-focused enterprise systems established several years ago or through the implementation of ground-up new platforms. A majority of NAILM members will relate to these initiatives as their organizations have either just completed, or are in the midst of major claims system changes and upgrades.

### **History Lesson #2: Systems That Can Speak to Each Other**

Two major technological developments occurred during the past decade simultaneously with the implementation of new underwriting and claims systems. First, the widespread adoption and stability of the Web allowed for a broader reach, greater user access, and new web-based tools. Second, the industry developed technologies that make possible the transfer of information among distinct systems.

Whether through XML, similar standards that allow for real-time data transfer, or through more traditional batch imports and exports of data files, carriers can now use distinct, best of breed and niche systems that communicate with one another.

This ability to transfer data spurred a number of new litigation-focused technologies and the rich array of offerings now available to insurance litigation managers.

### **The Business Drivers Remain the Same**

While the technology has become more sophisticated, the fundamental financial goals that drive all insurance and litigation success have not changed. Successful technology adopters recognize that the “bells and whistles” of the tools they review must tie in a meaningful way to their objectives, which can be broadly categorized as follows:

1. A reduction in expense ratios (both allocated and unallocated), by doing more with less, reducing cycle time (greater efficiency), and reducing legal expenditures;
2. Improved loss ratios overall through a reduction in indemnity costs (improved outcomes)
3. Better Decision Making --- Through the capture of litigation data, the creation of measurable metrics, and the delivery of better management reports and access to litigation information generally.

Successful litigation managers approach the market of available technologies with a very clear sense for what their goals are in each of these three primary areas and for how ancillary objectives tie to these broader financial drivers.

### **What Should I Do With This Technology?**

The title of this article summarizes the feelings of many insurance litigation managers who feel overwhelmed by the technology solutions available to them. Here are several best practices to consider in deciding how to apply technology solutions to your benefit:

#### **Rule 1: Seek it Out! Evaluate It! Learn From It!**

Many of us frequently find that we are “too busy” to evaluate tools that would make us less busy, more efficient, and more successful. While not a very “rational” approach we are all victim to this syndrome. Seek out these technology tools. Every month, make a point of speaking to at least one technology provider of interest to you. Possibly this conversation will help to identify a tool that you simply “have” to have. Even if it does not, an investment of at least 2 hours a month to learn about a new tool or solution provides you with powerful information about your competitors and what they are doing. If another insurance carrier is using a tool to save 10% of their litigation expenses, or 1% of their indemnity costs, this is important information for you and for your company.

#### **Rule 2: Manage the Technology Providers**

Be clear and directive with the technology providers you seek out. Articulate your expectations as a framework for further discussion with them. Identify in advance your objections for all meetings. The better business developers don’t want to “sell” to you any more than you want to be “sold” to.

Good technology providers want to solve problems. Establish 3-4 primary measurable problems you would like them to address, such as, "I would like to reduce my legal expenses by 5%. How could your solution help me to do this?" Ask for specific proof as to how they have accomplished this for other clients; ask for and contact at least two references. The way in which technology organizations respond to these questions says volumes about the way they can help you to accomplish your goals.

### **Rule 3: Create Vision and Awareness in Your Organization**

The financial and strategic benefits of today's technology are big ticket items. These savings go straight to the bottom line. Whether you are a senior litigation executive or a front line litigation manager there is simply no downside to making your management team aware that you are evaluating a solution that could save many millions of dollars. Think about who you believe would have to be involved in the decision-making process if you just loved the solution and felt you "had" to have it. Involve them. Introduce them. Reinforce that you are looking for ways to improve the bottom line.

### **Rule 4: Don't Wait for Things to "Settle Down"**

The history of technological change in the insurance industry is one of significant, sometimes painful, disruptive initiatives that took 1-2 years, after which things would (thankfully) "settle down." With new data transfer processes, faster technology creation, and a marketplace with more options, many feel that technological advancement in the future for insurance companies will be full of smaller, quicker implementations that take less time to implement but which will be constant. Don't wait for things to "settle down" to evaluate a new tool. They won't. And every month of inaction means money left on the table, objectives unfulfilled and opportunities wasted.

### **Rule 5: Lead Your Technology and Sourcing Team**

It is the rule not the exception to see the extensive involvement of sourcing or procurement teams in technology purchases. Working side by side with the technology group, sourcing provides much needed purchasing discipline as well as negotiating leverage. Technology providers frequently find that they are shuttled back and forth, however, between sourcing and litigation; with each group saying they are waiting for the other one to establish a need or define a business objective. Should you find a solution that you believe has value to your organization, work with the provider to define the value proposition in as much detail as possible. Then, lead your IT and sourcing teams; inform them of your desire to implement a tool that will make your litigation operations more efficient by saving money through improved outcomes. Provide them with the value proposition you have internalized. Nothing creates excitement more quickly than the prospect of being involved in a successful project!

### **RULE #6: Think Beyond ROI But Be Specific**

Many claims organizations justify their technology purchases in terms of Return on Investment (ROI.). Recently there have been several well crafted criticisms of using an ROI approach exclusively. A well written article in Technology Decisions

(November 2004), entitled "The Case Against ROI", argues against over-relying on the way in which traditional ROI calculations are performed.

A primary criticism frequently voiced is that traditional ROI calculations omit relevant but softer more strategic benefits. Purchasers and buyers intrinsically know that these benefits have value and that they result in financial gain, but that they are too difficult to quantify. One example of this is the benefit of having a close working relationship with outside counsel. Most litigation managers agree that close working relationships help to align litigation handling philosophies, enhance communication, and minimize litigation surprises. Including these benefits in a traditional ROI model is difficult.

At the same time, litigation managers and executives must be specific. Ask the technology providers for specific case studies of how their tools have been utilized by others. Look for great specificity in these case studies. Call the organizations referenced and ask about both the hard (ROI) calculations they may have performed as well as the softer benefits.

### **RULE #7: Ask About and Understand Implementation Challenges**

Ask about implementation methods early in dialogue. The strength of a technology provider's implementation is in their methodology. How many have they done? How long did they take? What were the challenges they encountered? What did their clients do that helped or hindered the process? What involvement do they need from their clients to be successful? What data do they need from their clients to implement smoothly? Understand the process and anticipate the questions you will be asked internally.

### **In Summary**

The marketplace offers more technology choices to litigation managers than ever before. Opportunities abound to take advantage of these new solutions and to put them to good use, creating financial gain and competitive advantage for those who avail themselves. By creating a vision and awareness of these opportunities within their own organizations, by guiding their own internal teams, and by being directive with the technology providers themselves, insurance litigation managers can decrease their costs, improve litigation outcomes, and create data-supported and improved decision making processes. It is truly an exciting time in the industry!

### **ABOUT THE AUTHORS**

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As National Director at TyMetrix, Inc. Taylor works with corporate law department, claims management, and litigation executives to reduce costs, improve case outcomes, and strengthen relationships with retained counsel. Taylor brings to his clients a background that includes 20 years of experience in the insurance industry including extensive work in litigation management, distribution management, and legal services sourcing.

Taylor came to TyMetrix in 2002 from ePolicy Solutions, where he helped clients apply emerging internet technologies to improve policy underwriting and distribution processes. Previously, Taylor held several key roles with MMI Companies, the nation's second largest hospital underwriter, including Senior Vice President of MMI subsidiary Professional Risk Management, the nation's premier medical malpractice third-party administrator. Prior to joining MMI Taylor managed litigation at CNA Insurance Companies and Norcal Mutual Insurance Company.

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**About TyMetrix**

TyMetrix, a part of Wolters Kluwer Corporate & Financial Services, is the market leader in Web-based management solutions for corporate law departments and claims organizations. Founded in 1994, TyMetrix is headquartered in Hartford, Connecticut, with staff across the country. TyMetrix provides claims and corporate legal departments with web-based systems for electronic invoicing, performance management metrics, matter management, budgeting and forecasting, document management, and collaborative knowledge management. TyMetrix is a CT Corporation company. More information can be found at [www.tymetrix.com](http://www.tymetrix.com).

**About the NAILM**

For over 15 years, The National Association of Insurance Litigation Management has worked to strengthen the relationship between its insurance carrier members and those who partner with them in the management of litigated claims.

The Association is comprised of Claims Professionals, Insurance Defense Attorneys, Independent Adjusters and Consultants. The NAILM members are dedicated to promoting the improvement of Insurance Litigation Management; enhancing the relationship between Claims professionals and its "Litigation Partners" the lawyers, independent adjusters and other professionals who assist claims professionals in the investigation, adjudication and resolution of litigated claims.

To this end, the NAILM sponsors research, conducts online and onsite seminars, and monitors and reports on trends in tort reform, regulations, and judicial decisions that

are of import to litigated claims handlers. More information about the NAILM can be found at [www.nailm.org](http://www.nailm.org).