

TechnoLawyer.com: The Top Five Myths About Document Assembly Software

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In this article, Seth Rowland, an application developer of document assembly systems, debunks the top five myths about document assembly software. In doing so, he avoids the smarminess of many industry spokespeople and even admits to idiosyncrasies and limitations in the current generation of document assembly products. This honest approach has resulted in a valuable article that all law firms should consult before purchasing document assembly software. This article won the MasterPost, a writing contest in The TechnoLawyer Community.

Introduction

While document assembly software may not be a “must-have” for every lawyer, many lawyers who could benefit from the software do not use it because of a lack of information, or worse — misinformation. I hope that debunking the five most common myths about document assembly software will enable you to make an informed decision and reduce the drudgery of drafting and re-drafting similar documents on a regular basis.

1. Document Assembly Takes Too Much Time

Document assembly software will not work miracles right out of the box; proper use requires an investment of time and care in customizing the system. The amount of effort invested in building the system will determine the extent to which document assembly software will help you and your colleagues.

If properly set up, document assembly software should enable you to create a solid first draft that closely resembles the first draft of a document you would normally create by the mark-up and revision of model documents. Once the software is customized, you have done more than create just one transactional document; you have provided the logic and framework for dozens of variations of the transactional document.

How much time will the setup process require, and how much time will it save? If you compare document assembly software to the drafting of a single transaction, document assembly will always lose. If, however, you compare document assembly to the drafting of as few as five similar documents, you will find that you save considerable time and effort by using document assembly software. If you use the software to create dozens or hundreds of related similar documents, document assembly software will change the way you conduct legal business ... and the way you bill your clients.

2. Document Assembly Software Is Too Expensive

Document Assembly software ranges in price from as little as ninety-nine dollars per user up to several thousand dollars per user. Nonetheless, the price of the software should not be the key factor in determining whether such a purchase is worthwhile. The software is cheap (at any price) compared to the amount of lawyer time spent on developing a similar system internally or drafting documents by conventional methods.

Investing in less expensive software with fewer helpful features will save money at the outset, but not in the long run.

3. Document Assembly Is Not Cost Effective

The best way to determine the cost-effectiveness of document assembly software is by analyzing return on investment (ROI). The rationale for document assembly software is that it saves time and therefore reduces billable hours spent on creating documents. This argument is obviously not true on the basis of an individual transaction and would likely deter any law firm from ever adopting such a system (thus rendering it useful only for in-house corporate legal departments). However, when one examines the issue from a broader perspective, considering factors such as volume of transactions and value billing, the ROI becomes apparent.

a. Volume

Law firms that use document assembly software can handle a greater volume of matters. In other words, they can complete a greater share of each client's business within a given amount of time, and also take on new clients.

b. Budget Caps

Law firms can deliver work under client-dictated budget caps, thereby keeping clients happy and encouraging them to send more of their business to the firm.

c. Value Billing

Law firms can move to flat rates for particular types of work and then delegate the assembly to paralegals and junior associates, with senior partners overseeing and reviewing the decision logic of the system to ensure quality control.

4. Document Assembly Software Is Difficult to Program

On the surface, this statement is not obviously false. Document assembly programs can be unforgiving; in some instances, a single programming error can cause the system to crash. The difficulty, however, does not lie in the programming. You do not need to become an expert programmer to make document assembly software work. The “programming” of most document assembly systems is easy — just a few important commands, pull-down menus and the like will enable you (a computer-savvy lawyer, but by no means a programmer) to create the appropriate syntax and codes. The codes used by the software are not overly complex and can be mastered in a day.

The real difficulty of document assembly software lies in the planning. To overcome this difficulty, treat the setup of document assembly software as you would treat the writing of a brief. Just as you would outline and organize a brief before writing it, so too should you outline your strategy for automating a document. Do that and the actual coding will fall easily into place. I would suggest that before you touch a single

key, you should write out a complete outline on paper, listing all decisions and mapping out the results that you want to see. Problems usually occur when a user marks up a document without planning and adds syntax almost haphazardly. Such an implementation typically results in duplicative and inconsistent code and becomes difficult to maintain. A little discipline and preparation will go a long way in helping you to avoid these problems. To make the creation process even smoother, you can work with a consultant.

5. Document Assembly Is Only Useful for Transactional Work

Document assembly is most cost-effective for a transactional practice. Nevertheless, the software can add value even for some types of litigation practice. For example:

a. Pleadings

Templates and macros can expedite the creation of pleadings and court documents, saving time otherwise wasted on proofing and modifying caption styles. Field codes (either native to the word processor or as part of a document assembly template) can ensure consistent entry of data across multiple pleadings.

Most pleadings are redundant in the styling of causes of action and affirmative defenses. You can draft these documents more quickly and with a reduced incidence of error by using clause libraries. Word and WordPerfect utilities and document assembly programs like HotDocs and SmartWords support editable clause libraries. These clause libraries allow you to store topical blocks of text in a central location with a topic heading and to “drop” the text into the pleadings at the appropriate place. If the users are conscientious in their use of these libraries, they can grow to become invaluable. I can also conceive of a document assembly routine that handles the styling of answers (i.e. admit the allegations of ..., deny the allegations of ..., deny knowledge sufficient ..., deny the allegations of ... but admit ...) and allow the user to drop in blocks of affirmative defenses.

b. Summons and Affidavit of Service

You can automate summons and affidavits of service very quickly with document assembly software. Of course, some lawyers would argue that they can edit a word processing template even more quickly. Admittedly, a Word or WordPerfect template can handle these simple documents.

c. Interrogatories and Document Requests

California and some other states have court-approved interrogatories, which cannot be altered. The only allowable change consists of omitting certain interrogatories from those served on the opposing party. Of course, the captions change from case to case. Most lawyers pull up a list of the complete interrogatories and delete those that they don't want. Others send out the entire set of interrogatories and let the opposing party object on grounds of relevance.

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Notwithstanding these pattern interrogatories, lawyers in other jurisdictions can benefit from using document assembly software to create interrogatories for both the definitions and the questions. Document assembly can help prevent the omission of certain important questions. If you work in a litigation practice that focuses on one area (e.g., admiralty, securities, personal injury, malpractice), you will find document assembly software particularly helpful because it can help you develop a basic line of questioning for use in all cases.

Document requests are similar to interrogatories. Some states use specific forms whereas others allow more leeway. As with interrogatories, you can use document assembly software to generate definitions and request clauses. The more specific the subject matter of your practice, the more value you will reap from document assembly software.

d. Notices, Orders, Affidavits of Service

These tiny nuisance documents accompany the “real work” of litigators. Using document assembly software to generate them will enable you to focus on writing fact affidavits and briefs.

e. Briefs

When I worked as a lawyer, I often drafted briefs by conducting an exhaustive search of the firm's network for briefs with similar subject matter (we used SoftSolutions). I cobbled together blocks of text from these briefs and dropped them into an outline. Of course, I still needed to Shepardize and redraft the documents, but the process saved an immense amount of time. With document assembly software, law firms could organize these key brief components for all to view and use. Again, the more specialized the firm, the more document assembly makes sense. For example, if your firm frequently makes Frye/Daubert motions to exclude scientific evidence, you and your colleagues can easily build a document assembly system that can generate a solid first draft.

f. Settlement Agreements

We now return to transactional documents. Settlement agreements and the more stripped-down releases are perfect candidates for document assembly software. Structured settlements often require some logic and some calculations. A good rule-based document assembly program can handle this variable language and perform the necessary calculations.

Conclusion

Document assembly software does not make sense for every law firm, but before reaching such a conclusion, I recommend that all law firms measure their document assembly needs and conduct a thorough investigation of the different software packages on the market. Only after a thorough investigation can you make an informed decision. If you find yourself reinventing the wheel every time you draft a document, chances are good that you will find some salvation amidst the codes, syntax and templates of document assembly software.