ACTIVE CASE MANAGEMENT

For Successful Immigration Case Outcomes

By the Innovation Law Lab[1]

What is Active Case Management?

Active Case Management for immigration cases is the application of five principles that guide an immigration case through a complex adjudicative system toward a successful client-defined outcome. It uses three concrete strategies – client-involved outcome setting, workflow standardization through lists and protocols, and data analysis for perpetual, dynamic adaptation – so that the hundreds of actions necessary in an individual immigration case will more likely than not be completed successfully and therefore lead to a successful, efficient client outcome.

Why Active Case Management?

Active Case Management enables immigration lawyers to:

- Apply the knowledge we have about a person and a case consistently and accurately over the life of the case
- Analyze discrete information at relevant times to improve the decision-making process, minimize wasted effort, and reduce decision fatigue.

In short, Active Case Management lets lawyers be lawyers and lets the practice of immigration law be beautiful.

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[1] This white paper was authored by Stephen Manning. Stephen is an attorney with Immigrant Law Group PC, a law firm in Portland, Oregon. He has practiced immigration law for nearly two-decades. He is the recipient of many awards for his work on immigrant rights. He is the founder of the Innovation Law Lab, a nonprofit building capacity for lawyers practicing immigration law, and a conceptual designer of LawLab, the case management software, used by his firm and many others.

ACM is the means to make the complex and life-changing work that immigration lawyers do more likely to result in positive client outcomes with greater efficiencies than is commonly thought possible.   While the more common case management method in immigration practice -- what Atul Gawande calls "expert audacity" -- often results in positive client outcomes it almost always does so with higher costs, avoidable tension and increased inefficiencies. Here is an example from my practice: I begin an intake with a client and soon, shortly after beginning the intake, I begin to make assumptions about the client and the client's history. As a result, I skip parts of my "normal" approach and intake process. This is "expert audacity" - I've been doing this for more than 20-years, I know how to interview and how to screen for eligibility. However, because of my expert audacity, I end up overlooking critical eligibility criteria. In fact, my perception of knowledge turned out to limit my knowledge and as a result, this particular case became more protracted, cost us more money to successfully complete, and caused tension in the attorney-client relationship. All these things could have been avoided had I followed the the principles of active case management.

ACM places value on the *delivery* of immigrant legal services - the actual creation of work product that directly benefits a human being in his or her immigrant journey. ACM eliminates decision fatigue in case processing in order to create more space for creative decisions in substantive law.

The Five Principles of Active Case Management

- **Vision**
    - Lawyers lead from a visionary place.
    - Minimizes the lawyer as the uninspired task-master
- **Collaboration**
    - Each member of the legal team to operate consistently at the highest level of her licensing and skills
    - A problem-solving viewpoint within a collaborative team maximizes the potential for a successful client outcome; whereas a task-based viewpoint increases frustration and increases information & decisional waste
    - Living human beings are part of the work creation process
- **Relationship building**
    - Lawyers maintain a role as creators, advisers, counselors, and guides
    - The client participates in decision-making and defining successful outcomes based on his or her ability and desire
- **Simplicity**

- ○ Checklists minimize errors and maximize the potential for successful outcomes
- ○ Persistent repetition builds muscle-memory which improves time and money efficiencies and increases successful outcomes
- ○ A simple framework for case management creates an agile approach to obstacles, evolving legal rules, and new client information
- ○ Unanticipated events are more easily adapted to and incorporated in planning and true emergency situations are less frequent
- **Transparency**
  - ○ Maximizes the amount of information available for everyone involved in a case's development
  - ○ Minimizes decision fatigue
  - ○ Focuses advocates on client outcome and the elements related to developing good client outcomes.
  - ○ Minimizes task initiation that are unrelated to defined client outcomes which increases internal efficiencies (saving time and money)

The Three Core ACM Strategies

Client-Involved Outcome Setting
- Client-Involved
  - ○ It is the client's life and the client's goals must always be paramount. The lawyer does not define the goal. Instead, the lawyer maps the client's goals onto a legal framework and sets realistic expectations.
  - ○ This is an adaptive process so that the mapping and expectation-setting will inform the client-defined goals.
- Two dimensions
  - ○ Substantive (e.g., grant, denied, removal stayed or delayed, family unification obtained)
  - ○ Temporal (e.g., when will the substantive outcome be realized?)
- The outcome is defined at the earliest possible stage of the case.
- Outcomes should be defined at the largest level and then, worked backwards into the smallest achievable outcomes. For example, a larger case outcome, for example, might be obtaining permanent residence for a client. Setting this outcome at the beginning of case allows for the lawyer and client to plan different pathways. After establishing this outcome, the lawyer would map the process for the client onto a series of smaller steps: a successful petition for alien relative, a successful provisional waiver, and finally, a successful immigrant visa interview.

- The temporal aspect of the outcome should also be defined. Here is where realistic expectations become vital.

Workflow Standardization
- A workflow is an agreed upon mapping of the minimal tasks necessary to successfully complete a case laid out in sequence from beginning to end and assigned to individuals who in turn take action to complete them.
- Workflows bring manageability to the know-how of an immigration advocate
- Communication among a legal team is substantially improved because tasks are regularized.
- Workflows allow for higher volume processing of complex cases because the standardized pieces are automated in assignment and sequencing thus the lawyer can focus on the aspects of a case the bring complexity and, thus, require higher legal acumen.
- Regularization through a workflow's protocol and list minimizes frustration and tension on a team and with a client because it brings a certain level of predictability to the immigration case cycle. Predictability in turn enhances agility because it allows a lawyer and a legal team to anticipate problem areas and pivot.
- Regularization eliminates "expert audacity" by mapping out the minimal sequence of tasks and the minimal necessary items of evidence necessary to maximize the potential for a successful case outcome.

Data-informed dynamic adaptation
- By providing lawyers and the legal team with information about their actions in real time and then giving them a chance to change those actions, case outcomes are achieved quicker with more substantive success.
- A key operating principle behind Active Case Management is creating a data-informed, dynamic feedback loop where action is quantified into information which is shared in a relevant fashion with the legal team for an improved, real-time (dynamic) reaction.
- Active Case Management captures and measures data about important attributes of a case such as processing metrics (e.g., time elapsed between tasks, a case completion cycle), case demographics (e.g., nationality, case type, adjudicators), and case outcomes (e.g., substantive decisions).
- The lawyer gets greater control over the case because the best information is displayed at the relevant time to enable the lawyer to make the best strategic choice.

Active Case Management and **LawLab**

LawLab by the Innovation Law Lab is a case management platform designed around the Active Case Management productivity theory. It applies and incorporates the three core ACM strategies of client-involved outcome setting, workflow standardization and data-informed dynamic adaptation. It is intended to let a lawyer get to a successful outcome more effectively and efficiently.

To understand how LawLab works requires understanding only three simple concepts: how LawLab categorizes information, how LawLab categorizes the things that lawyers do in a case, and how LawLab composes those things into a sequences of tasks to get things done. Mastering these three concepts means you've mastered LawLab.

LawLab categorizes all information about a case in two ways. **Information is about a person or the process.** In LawLab, people are called "parties". A party is simply a person with a relevant connection to a use. Party information is information about that person: her personally identifiable biographic information such as name, date of birth, place of birth; family history such as her marriages, children, parents, and siblings; her residential and employment history and other similar data. Everything else is process data. Party information is collected throughout an immigration case. LawLab lets a user capture party data using an interview wizard or direct entry into party fields. Process data is captured in the case docket.

LawLab categorizes the things that lawyers do four ways: an event, a task, a list item, and a note. Combining these four things into a sequence creates a workflow.

- An **event** is a thing that appears on the calendar with a date & time and is assigned to a person. For example, an appointment with a client or a hearing with the immigration court.
- A **task** is an actionable thing assigned to a person with a due date for its completion. For example, assigning a legal assistant to complete a translation by next Friday is a task.
- A **note** is a thing that is informational, not actionable and not assigned. For example, the fact that a lawyer made a telephone call to a client and the content of that conversation would be memoralized in a note.
- A **workflow** is a sequence of tasks related to a particular case type.

For example, if a U.S. citizen wishes to immigrate her spouse, a lawyer could create a record in LawLab using an interview wizard that would collect information about the parties. Here, information about both spouses would be captured through the wizard and populated into a informational display about each one. A case would be created called, for

example, Immediate Relative I-130, that would consist of the party information matched with a list of the typical evidence required to initiate an I-130 (a list of items such as birth records, marriage records, divorce records, photographs, and the like) and a sequence of tasks necessary to complete the case such as, for example, scheduling an intake, translating birth records, verifying eligibility, reviewing forms for signature, submitting and tracking the application through adjudication, and similar process steps. Workflows are created by each firm's administrator and are unique to that firm's mapped protocol.