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 National

SYSTEM SYNERGY

Sophisticated new processing and reporting capabilities merge their momentum to raise the servicing bar.

By Richard Geary, NDeX: National Default Exchange

IT WAS JUST A MATTER of time. The default servicing industry has been moving toward more robust and sophisticated processing technologies and correspondingly powerful reporting capabilities for some time, but the events of the past few years have accelerated that timeline. Today, in the wake of more formal regulatory momentum—such as the consent orders issued earlier this year by the Office of the Comptroller of the Currency (OCC)—the industry-wide trend is even more evident. While evaluation and debate continues on the specifics of how to best move forward, there is a strong general consensus that new systems, new technologies, and new reporting capabilities that provide more transparency, accountability, security, and verifiable processing are not a luxury; they are a necessity.

NEW CHALLENGES

Fortunately, visionary and proactive law firms have been working diligently to make that necessity a reality by designing and implementing powerful new systems. The record volume of foreclosures has put enormous amounts of pressure on existing technological and personnel infrastructure. Higher volume also leads to greater complexity and a series of new challenges.

Law firms are not only dealing with more defaults, but also longer timelines and higher levels of scrutiny and regulatory review. From the need to reduce or eliminate avoidable errors to the need to provide clients and investors with more detailed, timely information, the demands on the industry are growing. As a result, there is a growing respect for the power and potential of

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 National

FEDERAL RULES OF BANKRUPTCY PROCEDURE

A rundown of the new amendments and their accompanying requirements.

By Ashley Osborn, South & Associates, P.C.

IN THE SPRING of 2011, the Supreme Court approved amendments and additions to the Federal Rules of Bankruptcy Procedure. The new and amended rules took effect December 1, leaving little time to make sure creditors comply with the new requirements. Changes to Rule 3001 and the addition of Rule 3002.1 add procedural requirements to consumer creditors filing proof of

claims and assessing and notifying courts, trustees, debtors, and their counsel of payment changes, incurred fees, and completions of plans.

The first change is in the proof of claim form itself, form B-10. The new form adds a space for a Uniform Claim identifier (section 3b), a number that will be assigned to the particular claim and is a combination of several numbers that link the

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 Opinion

FORECLOSURE MEDIATIONS IN ACTION

Many other factors contribute to stabilizing foreclosure rates, but productive mediation programs can only help get us closer to that goal.

By Majenica Springer, Reisenfeld & Associates, LPA, LLC

OVER THE PAST couple of years, foreclosure mediations have become a national trend, with the rules varying by state, county, and even by city. Some states have passed statutes giving borrowers the right to mediations, such as Indiana, Washington (the "Foreclosure Fairness Act"), and Hawaii. Florida has enacted administrative orders to the same effect. Providence, Rhode Island, requires lenders to go through its mediation program before proceeding with foreclosure. Although the laws enacted in each area vary in many ways, they state similar purposes based on the same reasoning.

After looking through the various laws that have been enacted, the general purpose of foreclosure mediation programs seems to be to ensure that lenders do not unnecessarily foreclose on borrowers' homes, to facilitate foreclosure prevention agreements (in some programs these include non-retention options, such as short sales and deeds in lieu), and to crimp foreclosure rates. Since the majority of mediation programs were enacted within the last two years, it is too early to tell if they have had the desired effect of preventing unnecessary foreclosures and stabilizing foreclosure rates. However, it does seem that mediations are successful

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great new technologies, and an appreciation for the extraordinary reporting capabilities that result from those advances. Industry professionals are beginning to understand how the latest systems and reports can be used advantageously and what these capabilities mean with regard to improving performance.

This new generation of processing technologies has highlighted the fact that there is a strong connection between risk mitigation and efficiency. Stronger accountability and auditing proficiency is not only consistent with professional best practices, it will be critical to success in the servicing industry's "new normal."

NEW ARCHI-'TECH'-TURE

A turbulent and still-evolving legislative environment and inconsistent regulatory standards have made it more difficult for lenders, servicers, and attorneys to develop a unified framework. Faced with a lack of specificity, core industry principles—consistency, accountability, and responsive and responsible servicing—have emerged as guidelines. The best systems are designed to address those priorities, while remaining flexible and adaptable to regulatory or procedural mandates. And while there may be functionality and operational differences from one system to the next, best-in-class processing/reporting systems all feature the same key elements:

- Process

Step-dependent processing is one key. You cannot move on to Step 2 if Step 1 is still incomplete. Operators should have access to all the resources and information they need to complete the next step in the process, but nothing more.

- Personnel

The best new systems ensure that the right people have access at the right time, but limit unnecessary exposure. If you are responsible

for Step 4, you are unable to access a file that is still on Step 2.

- Policy

When there are certain aspects of a file that require an attorney's attention or when there is a stage in the processing that requires an attorney to complete that step, system security and functionality must support that restriction.

- Procedure

Timelines are important. Every step should have an expected completion date and time frame. When operators and supervisors can differentiate between items due today, tomorrow, and past due, they can allocate resources appropriately.

- Pliability

The best systems are flexible and can be modified to provide access or direct workflow according to a range of adjustable variables: client/investor/insurer/geography of work. This allows law firm professionals to assign "ownership" to a file or account in a manner that is deemed acceptable to the structure of the department.

- Protection

While a well-designed system provides a high level of process security—ensuring that the right people have access to the right information at the right time—there is an additional security layer that must be a part of every great system. Security priorities should include securing the network and limiting/monitoring access, protecting data through encryption or by having the ability to lock down fields once data has been entered and verified, and even implementing physical security policies to limit access to sensitive areas of the workplace.

NEW FRONTIERS IN REPORTING

What is truly exciting about these new systems is not just that they are more efficient

... they also are more accountable. Monitoring access, tracking timelines, securing data, and ensuring that the appropriate action (or inaction) is occurring is important, but the ability to validate those things is what is beginning to take the servicing industry to the next level.

Compliance and auditing, particularly with respect to clients who are understandably anxious to have that assurance, is essential. Law firms that can use timestamps, digital verification, and other built-in documentation to provide that verification will find themselves in an advantageous position.

The best new technologies and sophisticated new systems have the ability to issue real-time customized status reports. Not only can law firms access and verify data quickly and efficiently, but they also can then issue detailed and updated client reports as needed. This high level of security, functionality, and documentation supports a more proactive approach to processing. Proactive reporting allows the law firms and servicers to collectively identify strengths and weaknesses, as well as trends. And when there is a misstep, it is easier to identify and remedy those issues more expeditiously and efficiently than in the past.

What makes these technologies and reporting capabilities special is not the individual pieces—it is the synergy and efficiency of a well-designed system. At a time when there are more files being processed than ever before, and when it is more important than ever that the information in those files be accessible, protected, and accurate, these new systems and their powerful tracking and reporting capabilities are proving to be an essential ingredient in the servicing industry's recipe for long-term success.

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to take advantage of volume discounts.⁶ The enhanced buying power allows a company to choose the lowest or best price, negotiate a "flat rate," or control the costs by creating a stable and uniform pricing structure. In today's economy, maintaining your bottom line is vital to the success of your company, and receiving competitive pricing helps to work that bottom line upward.

Although negotiating a competitive price is good, the pricing will not help you if your quality suffers. Again, this is where a national vendor has an edge over some of the regional competitors. One of the greatest advantages of having a single supplier is that you can be assured that the quality of the materials you buy are consistent.⁷ Consistency and stability play significant roles with the quality of the product or service of a national vendor. Oftentimes, a national vendor can provide a higher-quality product or service at a better price with less complexity than a local or regional vendor.

As your relationship grows with a vendor, other advantages begin to form and take shape. No longer do you have a buyer/seller arrangement but rather a business partner relationship. This new business partnership can bring a company to new places it has never been before. The vendor will take the time to learn the organization's specific requirements⁸ and the company's strategies⁹ and help with continuous organizational improvement.¹⁰

Finally, many organizations have been directed to "do more with less." The thought of reducing costs does not only come from favorable pricing from your vendors but also from the hidden costs that can be reduced on your bottom line. Using one national vendor saves time by only having to contact one vendor, whether it is for placing an order, following up, or handling issues that arise. These hidden costs are added on to the competitive pricing received and can result in larger than expected cost savings.

POTENTIAL DISADVANTAGES OF A NATIONAL/SOLE VENDOR:

By working with only a single vendor, an organization may lose the ability to shop around or negotiate a lower price.¹¹ After a contract is signed, hidden costs may be discovered. The contract is usually drawn up by the vendor and may be slanted in its favor.

Once a contract or agreement is in place, you as the organization are now "locked in." Unless your organization brings a large enough volume to create leverage, there are not many changes you can demand of that vendor. In addition to that, a vendor can become complacent. Either the vendor knows that you are locked in or that you cannot find a better supplier. Consequently, it may not provide you with the necessary service you deserve.¹²

Next, in almost any industry, new technologies and greater sophisticated products and services are offered by competing companies all the time.

Unfortunately, if your organization has signed on with a particular vendor that is not offering any of the newest gimmicks or gadgets, your organization either will not be aware of them or may be unable to get them.

The final and possibly most important disadvantage is dealing with unforeseen events. There are many things that can derail a business partnership: the finances of the vendor become stressed, acquisitions occur, legislation changes, a bitter relationship forms, etc. Organizations become dependent on what products or services a vendor can provide. In cases where an unexpected event occurs that affects your supplier adversely, your business will suffer.¹³

When evaluating any regional or national vendor, an organization must take its time before choosing which path to take. It is important to remember to research not only the prospective companies but also the market and the effect that each company can have on your organization. Analyzing all the advantages of each company while also paying attention to the disadvantages and how they affect your organization will definitely pay dividends in the long run. ☐

1. AT Kearney Q006, Procurement Transformation Initiative Category Profile (SPD PR020) Vendor Market Analysis NRC, 2 AT Kearney 2006, 3 Kirk & Pagan 2003, Single Source Strategies: One-Stop Shopping for Health Care Software, Retrieved June 21, 2011, from HealthData Management: www.healthdatamanagement.com/news/2003/06/23/1.html; 4 The C.I. Inc., Could You Benefit from Vendor Consolidation? Retrieved June 21, 2011, from ABI-Inquirer: www.abi-inquirer.com/news/06/23/1.html; 5 Professional Paid Staff Management Association June 2008, 6 Vendor, Inc. Inc. Vendor Consolidation Steps: Big Benefits, Retrieved June 21, 2011, from VendorLabel.com: www.vendorlabel.com/news/06/23/1.html; 7 Hulse, C. Inc. Advantages of Having a Single Supplier, Retrieved June 21, 2011, from VendorLabel.com: www.vendorlabel.com/news/06/23/1.html; 8 Hulse, C. Inc. 9 Galt, B. G202, August 10 SupplyChainDive (May 25, 2006), IBM Needs Vendor Forward Course of Single Sourcing, Retrieved June 21, 2011, from SupplyChainDive: www.supplychaindive.com/news/06/05/25/26/nid=511111; 11 TechRepublic, September 17, 2004, Discovering Single vs. Multi Vendor Approaches, Retrieved June 21, 2011, from TechRepublic: www.techrepublic.com/news/04/09/17/2004/117223_12.html; 12 Hulse, C. Inc. 13 Hulse, C. Inc.