



# THE EVOLUTION OF CLAIMS ADMINISTRATION TECHNOLOGY IN **BANKRUPTCY & RECEIVERSHIPS**

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**A**s the needs of companies, professionals, and stakeholders engaged in bankruptcies and receiverships evolve over time, so does the role of technology to streamline these proceedings. Today, virtually every player in the corporate turnaround process—including bankruptcy professionals, financial advisors, and creditors—uses technology to create new efficiencies. Innovation in the claims administration of bankruptcies and receiverships has accelerated in recent years with new

applications, artificial intelligence-enabled tools, and processes that streamline these complex legal matters. Technology empowers turnaround professionals to provide claimants and other stakeholders with a more accessible and digestible picture of often-voluminous bankruptcy and receivership filings and other materials. Not only do new technologies allow for complete public disclosure, they can also minimize the burden on claimants and stakeholders who seek such information.

In recent cases, some of the most notable technological advances in claims administration and management involve electronic noticing, customized web pages for claims, as well as electronic distributions. Through these enhanced applications, turnaround professionals can make the claims and distribution process more accessible and user friendly for claimants, ultimately serving the goal of efficient and timely case resolution. And when there are significant cost savings,



those are passed to stakeholders to maximize their recoveries.

With the advance of technology-enabled processes comes increased security risks, which underscore the importance of stringent security measures and safeguards to protect users' data and personal information. This cannot be overemphasized, with potential risks seemingly growing by the day. But with careful planning and vigilance, the likelihood and impact of data incidents can be reduced.

**Electronic Noticing**

Electronic noticing has allowed turnaround professionals to efficiently reach more claimants—perhaps most importantly, those with claims with marginal or lower value. As the cost for filing claims comes down across the board with electronic filing options, turnaround professionals can reduce the burden on claimants, gain more claimants in the system, and alleviate administrative and financial burdens on key players and stakeholders in the process. More claimants and

creditors who have smaller claims can be heard and receive a favorable outcome compared to the more antiquated process that, for many, was cost prohibitive and out of reach.

The use of electronic noticing has become more prevalent in both corporate restructuring matters and receiverships. For both, courts are more frequently allowing email noticing in lieu of physical mail,

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especially when debtors do not collect or don't have access to physical addresses from large groups of required notice parties. In addition, the initial notice—often important to enforcing a stay—can direct claimants to a website that can provide a single source of voluminous information. These websites can give claimants the opportunity to subscribe to docket updates and ensure that all information is readily available when needed.

In corporate bankruptcy cases, the requirement for physical mailings for key milestones in the case often remains, but even when a physical notice is required, a courtesy email corresponding to that notice is more commonly being used, providing another avenue to reach the claimant. Moreover, in certain bankruptcy cases, physical mailings may not be economically feasible due to the large number of creditors, which necessitates electronic noticing to reach them. Notable cryptocurrency exchanges including Celsius Networks and Voyager Digital, for example, impacted hundreds of thousands of creditors who almost exclusively interacted with the debtors via electronic mail. In both matters, the court permitted the use of electronic noticing, which resulted in significant savings to both estates.

The use of electronic noticing brings additional benefits in terms of reaching claimants anywhere in the world, regardless if they frequently change their mailing addresses or live in locations inaccessible by physical mail. Today, individuals are more likely to change their mailing address than their email address, which makes email notice more reliable in many cases. And

in international cases where notices are being sent to individuals in places where the postal service may not be as reliable as in the United States, electronic noticing gives claimants and creditors a greater likelihood of being heard and participating in the process.

Electronic noticing also facilitates the use of plain language because it allows for emails and websites that layer a simplified communication over the documents and disclaimers. While the use of plain language when communicating with claimants and creditors should always be a priority, it can be especially important in the noticing process so that claimants and creditors can be more informed regarding any action needed and next steps.

### Customized Websites & Data Rooms

In today's receiverships and corporate bankruptcies, professionals and their service providers are increasingly utilizing custom web platforms and portals to create progressive claims filing processes, which can reduce confusion and streamline claims administration. Not unlike data rooms commonly used in M&A transactions, these websites offer complex functionality that allows for more efficient public access to information and claim submission for claimants, especially with scheduled or quasi-scheduled claims where limited information is sought from the claimant.

In addition, service providers are creating websites with interactive functionality that can serve as dynamic, real-time portals with two-way communication. Functioning as living claims registries, these sites give claimants real-time access to regular updates as to their claim

and distribution status, reducing the burden on courts and professionals to provide this information. They also can help claimants provide data and feedback to the trustee, administrator or receiver—especially in receiver cases where the judge relies on the receiver to manage the direct communication with hundreds or even thousands of claimants.

These websites can allow for more strategic notice, enabling restructuring professionals to curate and be judicious with what is mailed and emailed. As the volume of documents and forms increase, creditors and claimants may feel inundated and less likely to pay attention to what is important and what is not. By providing a website as a resource where all the information is available, noticing can be limited to when important actions are needed by the claimant or creditor with links to a website where they can find additional information. Moreover, providing access to these documents on a website can eliminate the need to email PDF documents that may be caught in spam filters. Including links to documents rather than attachments improves the efficacy of electronic noticing.

Increasingly, websites allow stakeholders and other interested parties to subscribe to notifications to stay informed about any updates to the docket or other case-specific events. Certain providers allow these notifications to be customized to the interests of the recipient so they are only receiving updates that are relevant to specific, desired aspects of the case.

Legal and financial professionals use data rooms in many types of transactions. This practice has naturally evolved into the bankruptcy world

because professionals are realizing the value of having a secured technology platform to share information rather than relying on email. And if a trustee or debtor needs to dispose of a complex asset or perhaps even an entire company under a Section 363 asset sale (11 USC § 363) or a receiver must sell property under a Section 2004 sale (28 USC § 2004), they may even use a data room in the traditional sense to facilitate the transaction. Traditional data rooms can also be helpful in receiverships where an in-kind distribution of assets is required that involves an acquisition of an asset by claimants in satisfaction of their claim.

Receiverships and bankruptcies can generate an enormous volume of publicly filed documents. AI is enabling new advancements that make for easier coding and searching of documents in customized websites. AI-powered searching can help non-represented claimants find the documents that are germane to them, rather than having to search the entire docket. It can help financial purchasers or claimants summarize and digest large volumes of data and documents without having to do complicated word searches. AI, however, is still in its infancy and does not always capture legal nuance. It should not be a substitute for analysis or decision-making, but it can serve to more efficiently access and organize specific information from a large collection of case-specific data.

### Electronic Distributions

Electronic distributions are becoming increasingly common in corporate bankruptcy and receiverships as a quicker and more efficient method than traditional check distributions, taking days rather than weeks to be processed and reach recipients. Historically, bankruptcy and receivership distributions are paid by check, but courts have become willing to consider and approve electronic options such as PayPal, Venmo, Zelle, and prepaid debit cards. This new option can be exceptionally useful in cases where the distributions are voluminous but generally consist of small to medium dollar amounts.

In cases where physical mailing addresses are not available, electronic distributions bring significant advantages in more reliably delivering payments to creditors and claimants. Furthermore, certain industries are better suited for electronic distributions,



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such as cryptocurrency cases where creditors tend to utilize electronic methods of communication rather than physical mail. In international cases, electronic distributions can be instrumental to people with limited banking options to process a U.S. check. They can also be a more cost-effective solution than a physical check for smaller distributions.

One potential downside is that electronics distributions are not always practically reversible once they are sent, even if they can increase the speed and lower the cost necessary to complete the transaction. While the benefits of electronic distributions often outweigh this risk in the appropriate cases, careful planning can also help to minimize the risk.

### The Importance of Data Security

Security remains an essential and constant priority in protecting all claimants and their data. At every stage of the process, layers of security are required to protect users' contact information. This can include multi-factor authentication, email, or SMS text verification along with the use of secure password protocols. For interactive and customized web

platforms, access to interactive claims management functionality must be safeguarded. When using electronic distributions, it is essential to protect user information about where funds are being distributed.

Professionals and their services providers must remain vigilant against phishing attempts and can employ electronic communication channels to quickly inform as many claimants as possible of potential threats when they are identified. Technology also allows professional teams to monitor threats and assists users in identifying them when they come directly to claimants, as well as to make it easier to push out remedial measures as quickly as possible.

As the role of technology evolves in the corporate bankruptcy and receivership space, new applications and advances continue to drive more efficiencies and cost-savings in the claims administration process for all involved parties. Whenever possible, turnaround professionals should seek ways to harness the power of technology to maximize cost-savings, transparency for claimants and recoveries to all stakeholders. ■