

Effective e-Discovery on a Small-Firm Budget

By Austin Maddox

Today, any firm that handles litigation must be prepared to analyze electronic data in the discovery process. But cost concerns keep many small firms away from cases that involve e-discovery—or lead them to accept less-than-satisfactory compromises.

In the past, small firms have partnered with larger firms that have the appropriate e-discovery resources, and have thereby sacrificed revenue or even some control over their case. Small firms have also attempted to do e-discovery themselves, but this can lead to data spoliation when electronic data is unintentionally mishandled.

But today there are tools that allow small firms to handle big e-discovery cases without purchasing expensive software.

Software as a Service

Many firms do not manage enough e-discovery-intensive cases to make an investment in e-discovery tools cost-efficient. But if a case comes in that involves a large amount of data, having access to the proper e-discovery tools is critical.

One solution is Software as a Service (SaaS), also known as “cloud computing,” which gives a firm access, via a secured Internet connection, to sophisticated e-discovery software and a secure data facility without the firm having to purchase those applications or equipment.

SaaS is especially beneficial for small firms because it lowers costs and meets security requirements, such as encryption and data backup, when handling e-discovery. To use SaaS, a law firm pays a fee to the e-discovery vendor and receives all the same functionality and support services as if the software were on the firm’s own computers. This allows law firms of any size to play on a level playing field, regardless of the volume of data or the length of the time the e-discovery tools are needed.

Some of the many capabilities of SaaS include access to robust databases that allow the firm to determine levels of access rights, dynamically search data by keywords and/or concepts, and make notes on the documents, which is especially beneficial for legal review. SaaS allows even small firms to analyze documents just as larger firms with more resources can.

Yet unlike a large firm, which could easily spend \$100,000 to \$250,000 or more on e-discovery software systems, storage capacity, and the stable server environment necessary for effectively handling e-discovery in-house, in addition to at least one full-time litigation support specialist overseeing the system, SaaS can provide the same capabilities for a small fraction of the cost.

Plus, unlike investing in in-house e-discovery tools, SaaS requires no large up-front commitment. Services can be purchased only when you need them, on a case-by-case basis. SaaS e-discovery expenses can be billed directly to the client, as they pertain specifically to the client’s lawsuit. By contrast, with an in-house system, it is difficult to convince a client to pay a portion of your fixed cost for maintaining it.

Contract lawyers

Another money-saving benefit of SaaS is its usability by contract lawyers. The most expensive part of the discovery phase of litigation is attorney review. Contract review attorneys, typically seasoned attorneys from leading firms or legal departments who work on a freelance basis, can carry out a first-pass review to determine what is relevant, what needs to be flagged for special attention, and what should be produced for the opposing party. SaaS can be set up for a contract attorney to use, regardless of location, in reviewing documents in the same manner as full-time employees of the law firm.

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Be prepared

A big fear for most attorneys is what they do not know. Lawyers should know their e-discovery options and prepare now to prevent problems later. Most e-discovery vendors do not charge for front-end consulting, so reach out to a consultant as soon as you anticipate electronic data being involved in a case to discuss what needs to be done and to determine the most cost-effective solution.

E-discovery does not have to represent a technical or financial hurdle. There are readily available solutions for any need and budget.

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