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LEGAL TECHNOLOGY

Making E-Discovery Documents Portable, Organized and Ready for Court

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Special to the Legal

I am a great fan and early adopter of legal technology, but when it comes to e-discovery I often find myself longing for the good old days. The Information Age has brought about an explosion of digital information that is stored on computers, mobile devices and in the cloud. Is it any wonder that this has led to the coining of the term “infobesity” (referring to information overload)? There was a time, of course, when documents were produced by giving the other side access to file cabinets and banker boxes filled with paper. The review process was purely linear and yellow sticky notes were liberally pasted on documents that needed to be copied. In large cases, dozens of file folders containing thousands of documents were produced, but cases



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containing hundreds of thousands or millions of documents would have been truly exceptional.

In the electronic age in which we currently live, documents are produced on hard drives or made available for downloading from cloud services. Email and the inevitable attachments, together with digital photographs and videos, as well as the multitude of native file types stored on computers, have caused the volume of information to increase exponentially. Attorneys once thought that a megabyte of data was a lot of information, but now we commonly

deal with gigabytes, terabytes and before much longer, will deal with petabytes (one quadrillion bytes) of data. To put this into perspective, it has been reported that email files typically average 100,099 pages per gigabyte, Microsoft Word files average 64,782 pages per gigabyte, text files occupy 677,963 pages per gigabyte, and image files (including PDF documents) average 15,477 pages per gigabyte. (As reported in the e-discovery blog posting by Doug Austin, “E-discovery Best Practices: The Number of Pages in Each Gigabyte Can Vary Widely”).

Clients, of course, find it difficult to understand why the cost of dealing with electronic information is so high. The answer is rooted in an understanding of the steps required to collect and process electronic documents. Preservation and collection is the first step in the process and involves locating potentially relevant documents. Once the

electronic information is collected, it is imported (ingested) into a document management system (such as Relativity, Eclipse, Summation or Concordance, etc.). An important part of this process, given the large number of PDF files that are usually involved, is making sure that the information is searchable using optical character recognition (OCR). Once this processing has been done, the information that is gathered can be stored in a central location (a review platform) for attorneys and paralegals to search, filter and tag important documents. This document processing phase involves the greatest upfront cost, but also provides the greatest opportunity to save money in the long run if performed efficiently.

The ultimate goal of all of this is to reduce the number of documents that must be reviewed. It is impossible to read hundreds of thousands of pages, but software that eliminates duplicates, analyzes and finds email threads, and performs predictive coding can reduce the number of target documents considerably. Of course, paralegals and lawyers still need to review the documents to make sure that they are actually, or potentially, relevant to the issues in question. Tagging the most important documents as “hot” and correctly applying issue tags is crucial and makes the preparation for litigation much more efficient, giving the trial attorney

more time to focus on substance and strategy.

Despite the quality of this culling out process, the attorney will still be left with a great number of documents that may need to be accessed in the courtroom. This is where portability comes into play because even a few hundred documents can be difficult to manage and search in a hardcopy format.

One of the greatest advantages of a tablet device, like an iPad, is the ease with which documents can be organized, highlighted and distributed to others.

Many attorneys will use a laptop computer to access the firm’s online database or a cloud service, and this can be very efficient. Once I identify the documents I plan to use for direct testimony and cross examination, I organize them on an iPad by witness and by issue. Using apps like Readdle Documents, PDF Expert, GoodNotes and the newly updated GoodReader, attorneys can efficiently access almost everything they need on a tablet device. The tablet does not get any heavier when electronic documents are added, and the days of misplacing file folders and paper documents are long gone.

One of the greatest advantages of a tablet device, like an iPad, is the ease with which documents can be organized, highlighted and distributed to others. During witness preparation, the witness can be given access to an electronic folder containing pertinent documents, without the hassle of a three-ring binder that seems to always fall on the floor and scatter all the pages. The trial notebook, containing all the most critical documents, including pleadings, legal research and witness information, can also be in a readily searchable electronic format for ease of access during all phases of the litigation. In reality, it is difficult to make a case for doing things any other way. •

