



VENIO SYSTEMS

WHITE PAPER

A Thoughtful Approach to Self-Sufficient Litigation Support

By Stephen J. Lief

Highly experienced veteran Litigation and Practice Support Director for several top AmLaw firms and the largest in-house law department in New York.

The purpose of this white paper is to explain the advantages of selecting the right workflow and technology for running an in-house litigation support department; the approaches described herein would be equally valid for any law firm or corporate law department. This challenge is always dependent on a combination of people, process and technology. The main focus of this article is on selecting appropriate technology, or combination of technologies to cover the bulk of your cases and case-data with a cost effective, forensically sound and auditable approach to scale your resources and mind your required time-lines without suffering from unpredictable eDiscovery costs. If done successfully, it will reduce IT costs for your firm and CTO/CIO, give your attorneys' tools to better represent and service the firm's clients and save you a lot of stress as your case loads fluctuate, as they always will.



"All of these suggested policies are only as good as the people that are following them, so it is important to constantly inspect the process and to educate your team."

It is probably worth providing some background about me: I am an attorney who has been a technology evangelist since the very early days of the legal tech and eDiscovery industries. I came to my most recent law firm with extensive experience as a law firm and in-house law department litigation and practice support professional, as a former technology consultant at a legal concept analytics software development company, as a former editor of legal technology publishing company and I am also a practicing attorney. My actual role was originally defined rather "narrowly," as the firm's eDiscovery Counsel. As this position naturally evolved, I found myself increasingly involved in the day-to-day case details and management, and necessarily so. What I realized was that I needed a method to organize my team so that I could focus on my actual case consulting work-load as the eDiscovery counsel, and simultaneously help my team to be able to function as independently as reasonably possible, together with maintaining some sound auditable method for maintaining quality work product in house and getting the best value for our clients overall.

First, I created a workflow to allow my team to assess our requirements on every case that we are assigned. My initial considerations were:

1. A repeatable workflow that would give our attorneys and users with a comfortable transition to a new technology with a variety of options.
2. Improving our capabilities to handle larger caseloads, without adding any new overhead.
3. Utilizing the current personnel and the technology available to me at the firm.
4. Finding a solution could address all the many myriad legal, administrative and technical requirements.
5. Every case would involve some level of triage to assign the correct internal or, as necessary, external resources.

One of my first implemented procedures was a quick and thorough case intake workflow such that each piece of data would be required to be checked into our department. This simple procedure is critical to maintaining proper chain of custody and it also helps to define who the client is, what type of case we are addressing, case specifications and who are the assigned attorneys to the matter. Different attorneys have varying levels of appreciation and comfort with technologies potentially utilized by their case-teams on their matters. These are simple details that take only a few minutes to record, even if it is in a simple spreadsheet, although, if it becomes necessary, nearly impossible to remember or re-create at any later point in the case's timeline.

"Once the data was inventoried we could make an educated fiscal and strategic decision about whether it should, 'stay in house or go to an outside service provider.' This decision becomes very easy if you create procedures based on cost and time, and provides the opportunity for upfront client approval, which is essential for all concerned."

Next, I assigned someone on my staff to be the "lightening rod" by which all of this information would flow. That was the beginning of my process; it was meant to be simple, because complexity invites non-compliance. Once the data was inventoried we could make an educated fiscal and strategic decision about whether it should, "stay in house or go to an outside service provider." This decision is very easy with procedures based on cost and time, and provides the opportunity for upfront client approval, which is essential for all concerned.

The second matter that I had to address was our outsourcing policy. As at many law firms, any attorney could engage any vendor to perform any service, and neither Practice Support nor IT had the authority to control who might be selected. To

that end, I believed that it was important for a support services department to compile and manage a short list of “approved vendors” to obviate the need to re-create the wheel every time a new case commences. Every firm is different, but I would generally expect that all vendors to be vetted via some consistent standards. At a minimum, [1] references should be collected and checked, [2] vendors should be sent a set of non-mission critical and not sensitive [no PHI or PII] test data, and [3] the firm should review and provide feedback on what is returned. The approved list was registered with the accounting department, and payments to vendors not on the list were to be reported to Practice Support for further discussion with the individual who requested the services and representatives from the appropriate level of firm managerial leadership. The firm benefited from the receipt of standard work product from its usual vendors, a concomitant reduced need for repeated and detailed advance discussions with any number of different potential vendors, and the obviation of the need for potentially detailed discussions to rectify failed vendor efforts or work.

We also realized that we were extremely behind the curve in terms of both our tools and our approach to in-house ESI processing capabilities. One of the features that I was seeking was the ability to do a quick inventory of any media given to the firm after it was logged by our intake workflow. Disks come into our hands daily, and it is often very difficult to convey their exact contents to the case-teams. When I started at the firm, we had to perform all of these various tasks with separate software: Intake with a set of MS-Windows tools or Excel: inventory and limited processing with IPRO e-ScanIT and Relativity for Review. All of these systems presented capabilities of various strengths, but none of the systems could offer the total panorama of options necessary to orchestrate a single, repeatable workflow. As time passed, we realized we needed an option that would permit the standardization necessary to achieve the repeatable process for 90 % of our matters without losing the value and investment we had already made in Relativity as a firm-wide eDiscovery document management and review solution.

The simple question was whether there was a solution or software which would allow the creation of a suitable repository for our case data, inventory it, triage whether the processing could [or should!] be done in house, and increase our internal capabilities to allow the in-house team to run some level of early case / early data assessment at a reliably predictable, fixed cost for my firm. The goal was never to create a high-end internal vendor to compete with external resources; our firm did not need that type of capacity with any regularity. The intention was simply to gain

the ability to process up 10 – 20 GBs of data, if needed, and make it load-ready without creating a whole new cost burden for our department. All projects over the 20 GB size could be outsourced to one of our approved service providers. The system that was selected allowed my team to check in and inventory all of our data, but only pay for what was then actually processed. At the end of each month, a simple report was run that produced a list of matters, media and projects that we worked on throughout the month.

One of the most important advantages to using a technology like Venio was that it did not require significant, extensive training to use the Venio Dashboard or Analytics; it was very straight-forward to learn and use. Anyone on our team has the ability to quickly globally de-dupe, search and cull data using the software's web interface.”

After evaluating several competing products, our committee selected the Venio Integrated Platform to complement our technology investments. While every firm will have different criteria but in our case, this simple, clean graphical eDiscovery platform gave us the ability to access forensic images, inventory data without committing to processing, an integrated early case assessment interface and blazing fast processing capabilities, at least as compared to our old regime. What we also required was an application to help lower the amount of data that our firm would ultimately have hosted on our increasingly overburdened data storage resources. Venio’s ability to provide an ‘all files’ report before the cost of processing begins provides opportunities to save money at that stage as well as keep the chaff from ever hitting the costly time consuming review bin.

An “extra” added component was that the Venio’s development team scoped out and developed a billing application for us to simplify a complication that was not addressed by any of the other applications that we tested. There were also other small details, such as the ability to create and export email threads, language identification and the 15 – 30 GBs per hour processing that could be accessed from either of our firm’s primary offices, and not-so-small details as their built-in facility for early case assessment [ECA]. In the end, Venio solved 90% of my goals with one product, and the investment was designed as a per GB “pass through” for our clients, at a economical and well-below market fixed rate.

As a sidebar, it is important to understand that my firm had made a long-term, very early commitment to kCura as the main database and review application. There was no intention

of displacing Relativity, nor were there any issues with that technology as a baseline for all of our review projects. What was needed was a superior processing application that would give us more immediate access to documents and seamlessly import into our in-house Relativity system. We found many of Venio's ECA and general reporting features (and graphic representations) far superior to the new, [version 1] Relativity processing tool. We went so far as to install MS-Office on one of our Venio servers so that we could take advantage of the native imaging options which the latest version of Venio offers, many more options than we have in Relativity or eScanIT.

One of the most important advantages to using a technology like Venio is that it does not require significant, extensive training to use the Venio Dashboard or Analytics; it was very straight-forward to learn and use. Anyone on our team quickly had the ability to globally de-dupe, search and cull data using the software's web interface. Furthermore, it is critical that we maintain a solid audit trail from intake through to production, and having a single source for processing our client's ESI data and facilitating our ECA helps us address our complex case requirements in a relatively simple way without the need to use the myriad tracking databases and excel spreadsheets which are all too common in our industry.

"By using these simple rules and practices, we have been able to increase our internal capacity, lower overall costs for our firm and to demonstrate the value of our department to our attorneys. By extension, this documented process gives our firm a way to literally illustrate a policy that was built to provide our clients savings, consistent quality service and predictable ESI processing budget to work with."

Another added benefit is that we are not required to make additional copies of the original processed ESI data when we port it to Relativity. Venio provides pointers to the original collection of edocs, text and images. Both products use the same Oracle Viewer [from Stellent], so the process can be fairly seamless. While we do have to load a dat file, we do not need to copy and transfer the database, saving time and expense while reducing risk.

As I mentioned, billing for eDiscovery is typically a rather complicated matter that will be driven by your firm's policies and philosophies about what is included as part of your legal consultation, and what is extra. In our situation, we typically need to provide our clients with both external and internal options, together with cost estimates for handling ESI material.

As part of my 90% rule, any service that we provide to clients and case-teams on a per-GB basis should be passed through to our clients at our discounted rate which was negotiated in advance with our software provider. We understand that it is imperative that we maintain full transparency so that we avoid any ethical considerations about "marking up" pass-through costs. We were able to create an auditable system that allows our clients to get an estimate of cost before their inventoried data is even committed for processing. This means that we have been able to avoid the type of sticker shock that causes partners, associates and our clients to feel like they have been blind-sided by an unexpected expense. All data is "scanned" and expenses are forecast based on the actual data size that is necessary for our matters, and we are no longer compelled to send out all of our data upfront. While all case data is assessed, as a practical matter, we still send out to a vendor more than 90% of our largest collections. However, we no longer commit to anything without client's informed prior approval, and we try to minimize what we send out by de-duping, date-restricting and running incredibly helpful preliminary reports upfront.

By using these simple rules and practices, we have been able to increase our internal capacity, lower overall costs for our firm, improve transparency and demonstrate the value of our department to our attorneys and clients by showing the savings and service that we provide to them and their clients. Happily, so far, 90% of the people involved have been very happy with in the progress of our Practice Support Group. This white paper is about what to do with 90% of your cases, and how to manage any litigation support department.

Steve Lief is a founder and first president of the National Association of Litigation Support Managers (NALSM) and E-Discovery, Compliance, and Litigation Support Management Association (ECALSM). He has significant experience as both a practicing attorney and a scientific programmer. Mr. Lief has served in a wide variety of legal/technology editorial and speaking capacities. Most recently, he was the founder and consulting editor for AmLawTech magazine, a publication of American Lawyer Media. In addition, Mr. Lief has served as editor-in-chief of the LegalTech Newsletter and was the founding editor-in-chief of Law Technology Product News magazine. He has been an advisor to the American Business Journal's legal industry "Management and Technology" television series and was a pioneer of the small firm, solo practice, and education tracks for American Lawyer Media's national LegalTech Conferences.