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Of the Legal Staff

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Plaintiffs Firms Turn to Technology to Handle Flood of Documents



Tom Kline



Gregory S. Sprizer

The following is excerpted from *PA Law Weekly*:

There is perhaps no other type of law practice with as much incentive to go "paperless" than the personal injury firm, if for no other reason than to keep from being buried in documents.

For those firms that routinely handle cases in which discovery can yield hundreds of thousands of pages that must be meticulously combed through, catalogued and maintained for future reference, having a way to electronically store, sort and search for documents is important for maintaining an efficient practice.

But not every plaintiffs firm thinks that type of software is worth the investment, and have instead opted for less costly generic tools.

Although many plaintiffs firms have made it their practice to digitize and electronically store documents, the term "electronic document management" more specifically refers to software designed to uniformly code discovery documents so that they can be sorted and retrieved at the touch of a button or click of a mouse.

Some firms The Legal spoke to said sophisticated document management software is essential to their practices, while others said they're able to keep track of their documents electronically using more routine methods.

Perhaps unsurprisingly, the complexity of the systems firms said they use correlated to the volume of documents they handle on a day-to-day basis which, in turn, related to the type of cases they handled.

... "We were in the trenches in the Vioxx litigation and there were over 10 million documents that were processed in that litigation," said **Thomas R. Kline** of Kline & Specter in Philadelphia. "And there you had a collection of law firms who needed access to a data bank for retrieval of the documents."

In that type of litigation, Kline said, employing a sophisticated document management system is really the only option.

"Any practitioner who has made an executive decision that they're not going to use electronic management in complex cases is just going to be far out of the mainstream," he said.

Ray Zwiefelhofer, president of World Software Corp., the New Jersey-based maker of the Worldox document management system, said the average number of new law firm customers his company has received each month this year is 40 to 50 percent higher than in 2009.

Zwiefelhofer attributed the increased law firm interest in part to "the increasing burden of e-discovery," which often requires firms to recall large numbers of documents in a matter of seconds.

James True, vice president of business development at Cabinet NG Inc., an Alabama-based company that produces document management software for the professional services industry, also said he's seen "a pretty good uptick" in use of his document management software by law firms over the last four years.

"The number of clients they're able to serve is in direct relation to the income they can make," True said of plaintiffs firms.

Document management software, he said, increases efficiency for those firms.

"It kind of puts a unified structure around the documents they use," he said. "That way it doesn't matter which attorney is working a case, it's going to be filed in an electronic document management system the same way."

But not all plaintiffs firms are sold on the idea.

Alan M. Feldman of Feldman Shepherd in Philadelphia said his firm has "struggled" with whether it should invest in a document management system.

Feldman said his firm has entertained presentations by software manufacturers and has spoken with other firms that use the programs but, at least for now, has decided it's not worth the \$30,000 to \$50,000 it can cost to implement one of those systems.

Add to that the cost of retroactively coding older documents so that they can be sorted in the system and Feldman said it just doesn't make sense for his firm at the moment.

"We just didn't think we had a pressing need," he said. "It would be nice to have it for the future, but it's quite an investment for something we would make fairly limited use of."

True, however, said document management software is ultimately cheaper than the cost of hiring someone to find missing files.

"If information isn't being filed consistently, it can be lost or at least misplaced," he said. "So by having it electronically in a system such as Cabinet NG, it's all available in one central repository."

Feldman said his firm does scan almost all of the paper documents it receives into a computer but sorts and searches those documents using more generic tools such as Google Desktop and Copernic.

And although Kline said document management software is a necessity for large, document-heavy litigation, he added that for most medical malpractice or premises liability cases where there tend to be fewer discovery materials, his firm still sorts the documents electronically using relatively unsophisticated methods.

"In routine medical malpractice or premises liability cases, putting aside products cases for a moment, electronic document management can be done within the confines of our computer system," he said. "We have the capacity to scan, sort and electronically retrieve all documents."

Although not every plaintiffs firm has found a need for the more complex document management programs on the market, it's clear that the personal injury practice has become closely bonded to technology.

"In the past 10 years, there's been a geometric progression in electronic document management and in electronic discovery [within the practice]," Kline said.

And this progression has impacted the way plaintiffs lawyers build their cases as well.

For example, Kline said, the traditional way of identifying the author of hospital records during discovery was to hire a handwriting expert to examine the papers.

Today, Kline said, it's common for plaintiffs lawyers to bring in a forensic computer expert to determine the footprint of an electronic document.

Technology has also become an almost inextricable part of the trial process.

"I don't think any of our lawyers try cases without an electronic presentation of the case right now," Feldman said, explaining that his firm uses trial presentation software and employs a courtroom technologist for every case. "We don't need a high-tech courtroom anymore, we bring our own equipment and effectively make the courtroom high-tech." •