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Keep it Digital: The Benefits of Technology in Litigation Don't Stop at EDD

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In the past couple of years we have seen a steady shift in focus to Electronic Data Discovery (EDD). You cannot pick-up a legal publication without running across a plethora of articles outlining how the litigation world has forever changed with the ever-advancing area of EDD. I do not discount the importance of EDD at all; however, with this shift, we seem to have forgotten about the other important steps in litigation that follows the initial discovery. Technology has an equally important role in these processes.

Just as important as EDD and the discovery process, are the steps that follow allowing attorneys to develop well-crafted cases. Once documents have been produced to opposing counsel, the work really begins. Firms must wade through the documents produced to them, take depositions and file pleadings. Since documents are produced in electronic form, keeping them in this format enables better management of documents. Firms that preserve documents electronically in a case management system will consistently reap the benefits of legal technology throughout the life of the case.

Firms are best served when they place production documents from opposing counsel directly into a case management system. Systems that feature full-text search capabilities of documents provide a strong competitive advantage to firms by allowing them to find the pertinent information they need quickly. Select case management applications allow for the tagging of production documents with issue tags and forums to identify key points so that attorneys can keep track of key documents from the outset of a case. These capabilities prevent documents from being lost or overlooked in preparing for depositions, hearings and trial.

Each step of the litigation process requires the creation of additional sets of paper all originating from the same place. For example, when exhibits are attached to a pleading or used in a deposition, most of the time they originate from production sets. Case management systems with features that allow users to compile sets of documents completely electronically avoid the same document being reproduced tens of times. Users can collaborate and create exhibits for pleadings, witness preparation materials, name pull binders and trial materials without having to waste time sorting and copying paper documents. By creating and managing files electronically, firms can save thousands of dollars and essential time. ASP solutions can provide added collaborative benefits by allowing all users to see and work on the same information at the same time.

With the adoption of e-filing by courts, the importance and advantages of using a case management system for post-production documents has dramatically increased. The Web site of the Administrative

Office of the U.S. Courts (www.courts.com) maintains up-to-date information on cutting-edge advancements by the government. Initiated in early 2001, the national roll-out of the case management/electronic case files (CM/ECF) system for bankruptcy courts is nearly complete, with the final 11 courts now in the process of implementing the system. The CM/ECF system for district courts began its rollout nationally in May 2002, and implementation of the CM/ECF system for appellate courts began in late 2004. Each court undergoes an implementation process that lasts about ten months. CM/ECF systems are now in use in 69 district courts, the Court of International Trade and the Court of Federal Claims. Most of these courts are accepting electronic filing. The Administrative Office of the U.S. Courts estimates that almost 19 million cases are on CM/ECF systems, and more than 170,000 attorneys and others have filed documents over the Internet. In addition to making all of the documents from a docket accessible in electronic form, most courts are accepting filings electronically in PDF (Portable Document Format).

There are case management systems currently on the market that allow attorneys to prepare pleadings and exhibits electronically, aiding in submitting filings to the court. Files from the court will be in electronic PDF format; therefore, for a firm to be truly efficient, it must consider implementing an electronic case management system. ASP solutions have the added benefit of posting documents to the system immediately without having to make hard copies.

PDF is a necessary component of CM/ECF. PDF preserves formatting and maintains the true images on the document, including filing stamps. Creating PDFs is as easy as printing a document from Word or WordPerfect. If you are interested in an open source PDF generator as an alternative to Adobe Acrobat products, take a look at PDFCreator. There is no discernable difference between the PDF documents generated from PDFCreator or from Adobe. When implementing or upgrading your system, look for one that allows you to prepare and store in PDF.

As EDD advances and CM/ECF is rolled-out, firms must make the move to automate all their case documents. Taking advantage of systems available will allow firms to stay ahead of the curve and gain a stronghold over matters. After all, in the spirit of litigation, your adversaries are likely leveraging themselves to access and review everything you produced and have testified to. It makes sense for you to have the same advantages. Savvy law firms are the ones that make the most of management systems allowing them to review and use of all types of case documents...and not solely discovery.

Useful Links

http://www.uscourts.gov/cmecf/cmecf_about.html

<http://www.pacer.psc.uscourts.gov/>

<http://sourceforge.net/projects/pdfcreator/>

<http://www.adobe.com/products/acrobat/main.html>

<http://www.llmnc.com>

<http://www.courtaccess.org/federal/documents/electronic%20filing%20in%20the%20federal%20courts.pdf>

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