

Bringing Discipline to Data Disorder



The Case for eDiscovery Managed Services

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With the explosion of information generated by new technologies, affordable storage, and constant communication, we're long past the information age: We are now living in the era of big data. More data is being created exponentially every passing moment, and stored in more and more formats than ever before. Smartphones, email, social media (both personal and professional), the Internet of Things, collaborative document software, chat tools, encrypted messaging — all of these and more each create digital footprints across devices, stored locally and in the cloud, backed up on servers and duplicated,

replicated, deleted, or corrupted ad infinitum.

The rise of BYOD (bring your own device) policies at workplaces mean that data is duplicated in even MORE places. And BYOD policies are often not closely managed, meaning employees can easily transport data home, across borders, or delete it from home — easily, intentionally, or by mistake. And, the ease of moving data into and out of cloud solutions at will means that employees are doing so with business and personal data more often.

All of this exploding data is stored in different places, in different formats, in varying volumes, and is subject to

different retention policies. And data is always moving in more directions than we can even consider — let alone keep track of.

But there is one thing ALL of it has in common: Any or all of it could be relevant in a litigation or investigation at any moment.

The Problem of Risk

DISTRIBUTED DATA CREATES MULTIPLE AVENUES OF VULNERABILITY

Who's responsible for all this data? Where does the buck stop when it comes to preventing and responding to data breaches? Who protects the data owner — typically, ultimately the corporation — from litigation risk? Who monitors for and prevents policy violations when it comes to data storage and data handling?

The average employee at a large corporation may be surprised to learn that “data ownership” — and therefore points of entry for risk, mishandling, and ultimately litigation, reputational damage, or data breaches — is often distributed, duplicated, and poorly tracked.

For example, a typical corporation may have several law firms working for it, each specializing in a particular type of risk, compliance work, litigation, or regulatory type. Each law firm may handle a subset of data that originally belonged to the corporation — which often may be duplicated from the

corporation's servers, to the law firms' servers, or a certain lawyer's or team of lawyers' desktops.

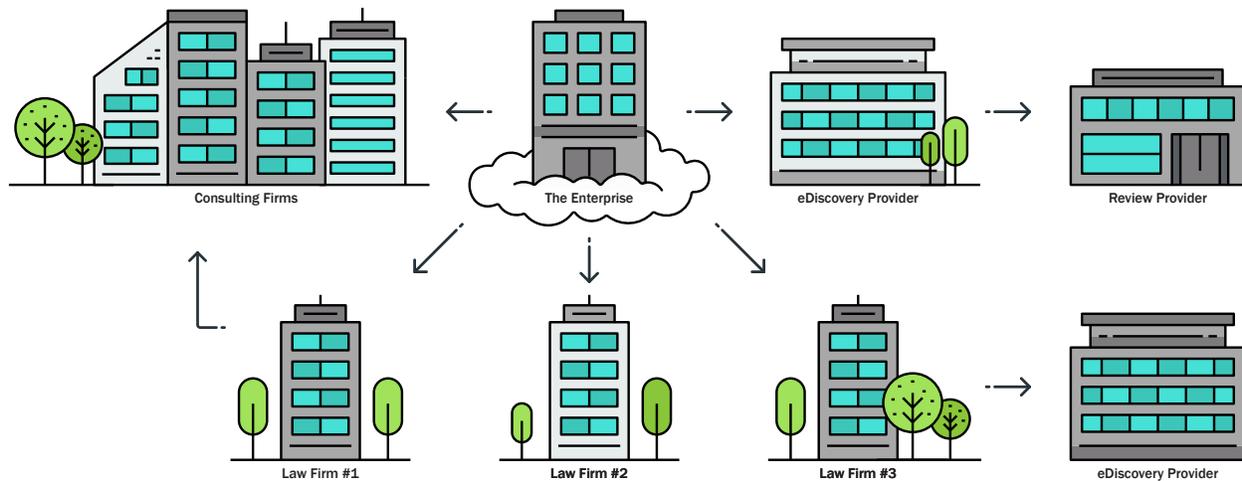
And, each one of those law firms may contract out further to legal services providers, who also own or duplicate ownership on the sets of data the law firms have. And technology platform providers may come in at either the corporate, law firm, or service provider level and each take a chunk of data to handle, duplicate, and store on servers.

Further, many corporations work with one or more consulting providers to handle any number of data-driven complexities, ranging from information governance to litigation preparation, from responding to a regulatory request or handling cross-border and international data transfer compliance issues to managing a litigation portfolio.

Data, once handed over to even a single external provider, quickly grows, multiplies, and spreads. Along with the data, so too does the risk grow.

But, consulting firms — especially large, international consulting firms — ALSO contract out their own law firms, legal service providers, and technology platforms.

Legility



Data, once handed over to an external provider, can easily grow, multiply, and spread — far beyond the original data owners' intentions or even knowledge. A common example is shown above: An organization may contract with a consulting firm to handle some aspect of compliance, a few outside counsel firms to handle different types of litigation or compliance, and an eDiscovery provider. Unbeknownst to the original organization, the consulting firm ALSO contracts with external counsel and their own eDiscovery provider. Each of their law firms has separate relationships with eDiscovery providers — and even their eDiscovery provider could contract out to a document review provider. This creates an incredible number of entry points for risk, litigation, and data breaches — ultimately leading to an organization losing control over the data for which it is held responsible.

All this means that any single corporation can quickly lose control of its data universe — not just within its own walls, but also OUTSIDE the confines of its own data environment. Data, once handed over to even a single external provider, quickly grows, multiplies, and spreads. Along with the data, so too does the risk grow. The data becomes more and more difficult to defensibly delete, to manage to policy, and to keep track of for regulators, future potential litigation, etc.

BALLOONING DATA, BALLOONING LITIGATION, BALLOONING COSTS

In addition to the risk-dispersed data poses to data breaches, data loss, and compliance violations, there is also the

enormous cost of managing discovery across all those data portfolios and service providers.

Consulting firms charge astronomically high prices to host, store, and manage data subject to discovery during litigation, and typically use very manual processes to move data through the phases of discovery — adding hourly markups every step of the way. Law firms' business models are often similar — if they have a way to handle corporate clients' data, they will do so — for a steep fee, with very little guarantee of security — and add hourly fees in seven-minute increments.

Each consulting firm and law firm on the company's payroll may in turn use more than one eDiscovery provider for any given step of the eDiscovery

Savvy legal teams are moving toward a single platform that:

- ✓ Keeps your data together
- ✓ Saves money through holistic pricing models that allow for economies of scale
- ✓ Give access to those experts that need it to treat the data properly

process, who each charge their own fees, which are passed on to the corporation.

Even when companies contract directly with eDiscovery service providers themselves, they may use more than one — one for processing and hosting, another for document review, another still for information governance. They may even jump from provider to provider with each matter — or choose different providers for different levels of matter complexity, type of litigation, or workflow design.

All of this makes it incredibly difficult to keep a lid on eDiscovery costs. In many cases, a corporate legal department may not even be able to know with any accuracy precisely how much they are spending on eDiscovery — let alone get their arms around a plan for reducing spend or driving any semblance of predictability into the process.

When you don't know who owns your data, not only is it at risk, it's incredibly expensive to

proactively manage through litigation, internal investigations, or regulatory inquiries. Certainly it's important to use the right experts for the right tasks — but savvy legal teams are moving toward a single platform that:

- Keeps your data together
- Saves money through holistic pricing models that allow for economies of scale
- Give access to those experts that need it to treat the data properly

This has the added benefit of allowing lawyers to focus on the legal issues at hand — and not split their time and attention by moonlighting as technology and data experts.

EDISCOVERY MANAGED SERVICES FOR LAW FIRMS: A COMPETITIVE DIFFERENTIATOR

Electronic discovery managed services can be valuable for law firms, too, looking to provide predictable costs to their clients. Legility enables law firms to pay a fixed monthly fee to house as many cases as needed. Law firms get their own segmented, capacity-based environment including infrastructure, applications, IT support, and user licenses — all for a single fixed monthly fee. With eDiscovery managed services, law firms can take the inefficiencies out of the eDiscovery process, focus on what they do best, and pass the savings on to their clients.

Cost Management

HOW MUCH MORE CAN LEGAL BE SQUEEZED?

Every legal department is under pressure to reduce legal costs and do more with less. Every company is doing everything it can to ensure compliance, minimize litigation risk, and control costs. However, litigation is inevitable and a huge part of the cost of litigation is eDiscovery. Not only can the costs quickly spiral — often soaring to the point of exceeding the value of a case — but they're wildly unpredictable and can wreak havoc on a company looking to reliably report results to its shareholders or board members.

“The costs of litigation are completely out of control. I did not become a judge to be a monitor in the playground where only the rich can play.”



John Facciola
FEDERAL MAGISTRATE JUDGE

While many companies and law firms pride themselves on demanding lower costs from their eDiscovery providers — fueling the oft-reported “race to the bottom” in price for eDiscovery providers, the difference

between \$10 per gigabyte of hosted data and \$9.50 per gigabyte of hosted data means little when that data is spread out across providers, duplicated and stored for longer than it needs to be, and sometimes lost to the annals of bookkeeping altogether.

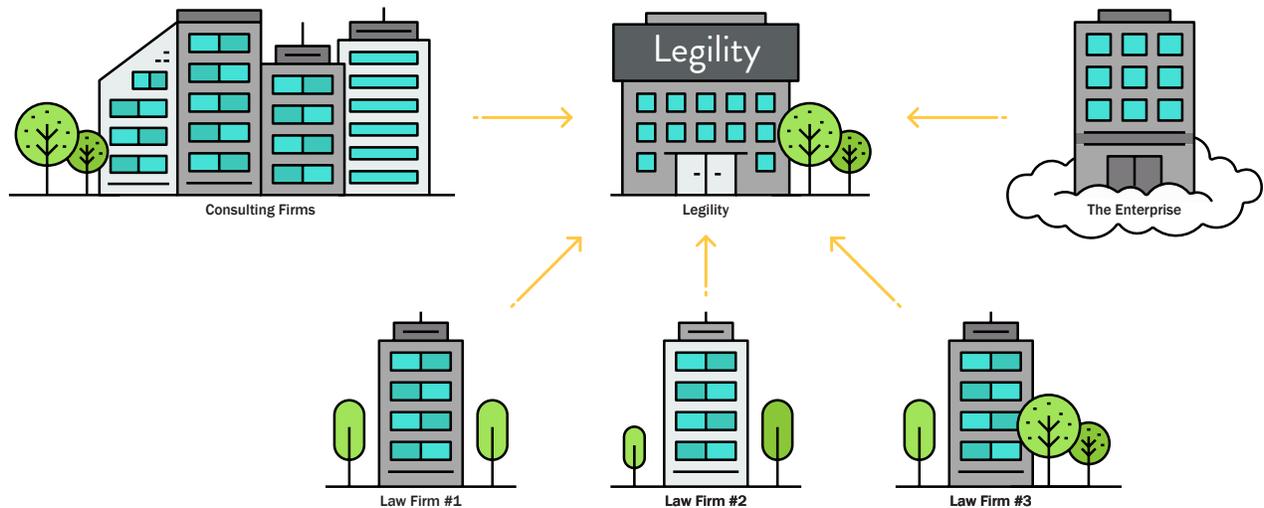
True Cost Containment

ECONOMIES OF SCALE

To truly contain costs — and drive predictability into the eDiscovery process — organizations must find a way to leverage economies of scale. Contracting with individual providers for pieces of the process, or switching providers for every case, certainly won't deliver economies of scale — and in fact works against this goal. Nor will bringing the entire eDiscovery practice in-house, which typically means corporations must invest up-front in building out their own secure infrastructure, become their own cloud providers, and become their own litigation tech support departments — none of which is directly related to their main reason for being in business.

Savvy legal departments looking to leverage economies of scale to cut eDiscovery costs are turning toward a single platform to manage all their providers adopting what's called a “managed services” approach. eDiscovery managed services is similar to “software-as-a-service.” With managed services, corporations choose a single, trusted eDiscovery

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When you don't know who owns your data, your data is not only at risk, but it's also incredibly expensive to manage through litigation. A single managed services platform through which all litigation data can be managed is the ideal solution for reducing risk and containing — and managing — costs. By granting “read-only” access to parties that need it — law firms, consulting organizations, document reviewers, etc. — and restricting access to everyone else, Legility eDiscovery managed services delivers the solution large enterprises facing recurring litigation, regulatory inquiries, or internal investigations need.

provider to bear the responsibility of selecting, acquiring, and maintaining eDiscovery technology. Managed services vendors provide custom-created hardware, software, and qualified professionals all for a single annual “all-in” fee.

This means that regardless of spikes in litigation load, there will always be enough infrastructure to intake, process, cull, review, and produce data in response to discovery requests, regulatory inquiries, and internal investigations.

And, since managed services contracts are typically multi-year partnerships, data processing volumes will typically decrease year-over-year as your provider intakes more of your data, thus reducing the need to re-process it. Further, your provider

will learn and iterate on your own unique process and needs, therefore increasing efficiency over time.

Cost Management

PREDICTABILITY

Legal teams need a system that's standardized so that in-house counsel, outside counsel, and technologists can all be trained and move easily from one case to another. A system that's simple, scalable, and flexible enough to handle both small and large cases, unique or bespoke workflows, and local data as well as multinational, cross-border data.

No corporation wants to staff a 24/7 litigation support operation, nor manage their own in-house, on-premise eDiscovery software.

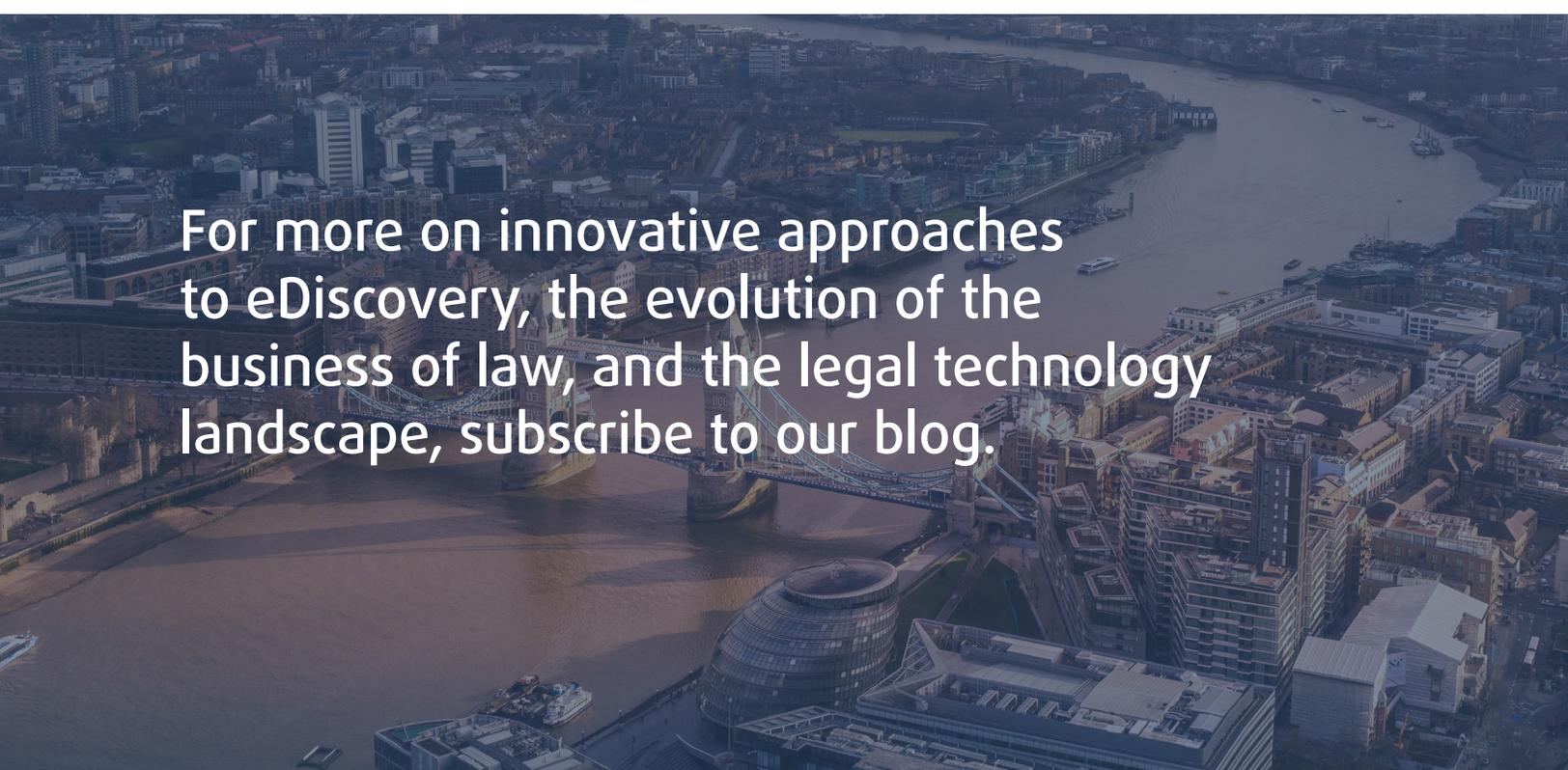
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Managed services deliver the solution that corporations need, at a predictable, recurring cost. So that no matter the volume or location of data, they'll always be able to handle it. And the commitment to managed services also means an effective rate of delivering services that is far below the effective rate of traditional service deployment.

Advantages of eDiscovery Managed Services

The advantages for legal teams are many:

- Managed services drive predictability into an unpredictable business process
- Managed services eliminate entirely capital expenditure for the purchaser, who no longer needs to ramp up IT and project management personnel for each case
- Enables legal teams to reap the economies of scale when a single provider manages ALL their eDiscovery data across law firms, consulting firms, technology platforms, and so on



For more on innovative approaches to eDiscovery, the evolution of the business of law, and the legal technology landscape, subscribe to our blog.

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Scott Culbertson
SENIOR DIRECTOR OF MANAGED SERVICES, LEGILITY

Scott Culbertson has more than 15 years' experience in litigation support, legal services, and eDiscovery. He has a passion for bringing legal technology and business value to organizations, and is a pioneer of the managed services delivery model for legal services. His background combines a deep understanding of commercial imperatives, IT infrastructure requirements, and nuanced legal process requirements, making him an asset to any organization looking to solve complex legal process challenges for a flat predictable fee.

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Sarah Brown is an experienced and widely respected eDiscovery thought leader. She brings more than a decade of experience to her role bringing awareness of innovative, bespoke eDiscovery solutions to the legal industry. She holds a master's degree in strategic communications from Columbia University and a bachelor's degree in journalism.

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ABOUT LEGILITY

We're on a mission to change how legal solutions are delivered.

We know that there's a smarter way to get the legal services you need – one that's more efficient, focused, and rewarding. It doesn't just produce a better return on investment; it produces powerful results. That's how we started.

We've been at it for 20 years. We're proud of where we've been. But we're even more excited about where we're going. To those that want to partner for that journey, we're here.

Legility. Transforming the way legal services are delivered.