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The Sky's The Limit: Why E-Discovery Platforms Are Not Just for Discovery Anymore

E-Discovery Blog

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While once a novel concept, the term "e-discovery" is now synonymous with the everyday practice of litigation. The process of spending hours in remote locations combing through boxes of documents and marking them with post-it notes has been replaced by document review platforms that allow attorneys to not just review, code, and produce documents, but to apply a whole host of software enhancements to streamline the discovery process and better understand their case.

However, what some may not realize is that these technologies are not limited to document review, or even litigation. Document review platforms can be adapted and used for a number of different purposes from managing mass litigation to responding to large numbers of subpoenas, to even organizing and handling contracts for large corporate entities. Today, electronic technology is clearly not just for discovery anymore.

Bulk Disputes

If you look at the fine print of almost any service transaction or purchase -- from ride shares to car purchases to vacation rentals – you will likely see a clause informing you that any disputes related thereto should be raised through arbitration. As a result, companies across many industries routinely face thousands of consumer arbitrations of all types and amounts — all at the same time. Even outside of arbitration, an incident or claim can gain traction online and result in thousands of claims in attempted class actions or other bulk litigation.

While companies with robust arbitration or dispute programs want to make sure their customers have an opportunity to have their issues heard and addressed, doing so can be difficult when there are so many filed at the same time. Companies facing bulk disputes, especially when there are common claims or fact patterns, need a way to address these disputes efficiently and in a way that provides them with consistency, transparency, and robust reporting.

In the past, those dealing with bulk disputes used spreadsheets and traditional litigation management software to manage the process. However, traditional case management systems and even basic e-discovery workflows are not designed for the demands of high-volume, fast-moving bulk dispute work. While many of these systems are efficient and effectively maintain documents and basic facts about an individual dispute, they do not allow the consistency, transparency, and reporting that are necessary for companies and their counsel to evaluate the

claims and determine their responsive strategy when dealing with bulk disputes. In addition, while these spreadsheets or other programs may work in the infancy of certain bulk disputes, they lack the flexibility to adapt as the project grows with additional claims or as the claims or focus of the claims changes.

In our experience managing large volumes of consumer disputes, we initially relied on traditional tools such as spreadsheets and standard case management systems. However, we found that these tools quickly became inadequate as the complexity and scale of matters increased. To address these challenges, we adopted a more flexible, technology-driven approach that leverages traditional document review technology in custom ways to allow us to build workflows tailored to bulk dispute management. By creating processes to capture key data and milestones and implementing real-time tracking and reporting, we achieved greater consistency, transparency, and actionable insights for both our team and clients. This shift transformed a previously manual and fragmented process into an integrated, data-driven solution, enabling us to more effectively meet the demands of high-volume consumer arbitrations and bulk litigation.

Additional Uses for Traditional E-Discovery Platforms

Beyond bulk disputes, this technology can be used in myriad ways. For example, the workflow described above can be tailored for other high-volume, data-intensive projects such as bulk subpoena review and investigative analyses. E-discovery platforms can be adapted to both contain and organize documents responsive to typical subpoenas and can also manage the subpoena process itself so that a company can provide timely and consistent responses.

Non-Litigation Uses of Traditional E-Discovery Platforms

As helpful as these platforms are in handling and managing mass arbitrations and class actions, there are uses for them outside the litigation realm. For example, e-discovery platforms can also be customized to manage contracts and other documents used in the corporate setting. Companies and their counsel have long sought a solution for managing their contracts. Even a midsize company could have hundreds if not thousands or hundreds of thousands of contracts at any one time with various customers and vendors, all with different terms, conditions, and timing. Adding in that terms may be constantly re-negotiated or language changed for various reasons, one can imagine what a lifesaver it would be to find an efficient way of managing these critical documents.

Traditional e-discovery software can again be customized to address these concerns. By housing the contracts in a document review platform, one can adapt the traditionally litigation-focused workflow to extract information regarding renewal terms, pricing, deadlines, etc. More importantly, managing contracts in this way, one can record output and results, better see trends and spot particular contractual issues, and companies can use the results to more effectively negotiate its contracts going forward.

The future

Of course, using e-discovery platforms in this manner is not a routine or one-size-fits-all solution. The advantage of this software and custom workflows is that it can be expanded creatively to truly problem solve and provide the information or output needed for the client's challenge. By setting up the coding and searches, databases can be adapted to record not just contracts, but particular terms or items of interest. Dashboards can be created to show trends or changes, and mass coding and searches can be used to identify contracts for which certain

actions need to be taken. Considering this flexibility, there seems to be few limits to its creative use. One could also envision a scenario where this software could be used for managing asset securitization for large commercial loans, due diligence in large-scale asset sales, or distilling critical details in commercial real estate transactions involving apartment projects or residential subdivisions.

We expect that we can even use AI within these platforms moving forward to further expedite the coding and upload processes, in addition to using AI along with traditional search functions to identify important subsets of documents. It is clear that e-discovery technology has advanced from traditional litigation to so much more. By creatively adapting it to meet our client's specific project needs, the sky is the limit for adapting it to its most advantageous use.

Related People

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