

e-discovery

Hi all, for the first time I have a case with lots of documents. Relativity has been recommended as a good choice for organizing all. However, before using Relativity, I thought I would check with the Firm to see if others have used it and if so whether you like it. Also are there other good choices?

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I have also heard good things about Logickull, although I haven't used it myself.

Katie Burghardt Kramer, Vermont

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I went through this in 2018 on a big case. Check around to see if there are any local vendors near you that do it. The one we used was local to Minneapolis and even came over to our office to help with showing us how to use some of the document review and search features. They weren't as pricey as some of the national services we looked at.

Not sure if there's someone local to you or not, but it might be worth checking.

Andrew M. Ayers, New York

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Our firm uses Logickull and we find it intuitive. Be careful what you feed it though, or those per gigabyte fees will add up. It pays to parse whatever your client sends you a little bit and try to load what is likely to be relevant. For example, if you get a laptop and load the whole thing, you may pay an arm and a leg to process an iTunes music library or the photos from 10 years of family vacations when there is no reason they should go up on an e-discovery platform.

Bryan Carey

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Don't be forced into an ediscovery platform prematurely. I have had cases with 50,000 documents (de-duplicated). All were processed internally and kept organized for trial. With the right mind set and software it is addressable. The biggest problem I had was printing and organizing all the exhibits for a non-tech courtroom for trial.

Darrell G. Stewart, Texas

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Darrell, did you scan, ocr, and put into searchable pdf files (and then use the portfolio system inside adobe pro) along with something like OneNote or Evernote? You can

probably set up a process that can be scaled up or down depending on the volume of documents. One caveat:

you need to be able to get the OC's documents in a conventional pdf format, I would guess. That would mean --- no TIFFs or weird file format structures. I would guess. How to get the OC to agree upfront to exchange all documents in a pdf format --- I don't know?!?

Am I on the right track or do you use a specific set of process steps?

Thanks for any replies.

Roberta Fay, California

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In the case I related, many of the documents from opposing counsel were picked up by a legal records service who at my request scanned them into PDF. Late in the case opposing counsel also produced some directly in PDF format. If any were produced in an alternate format (there was some), I maintained the original and converted to searchable PDF.

All of my client's records were produced in PDF format. Some I scanned, some I converted. At the end stage of production to opposing counsel, a single production response was merged and all of it was continuously bates stamped (actually I did a custom footer).

We did not have controversy on emails, because there were only a few, mostly produced by a lender involved. I did maintain original forms of things like photos but they were post-litigation photos produced to opposing counsel with labels and in PDF format.

I organized production in a way that made sense to me. Each of opposing counsel's production was maintained as produced, then I would manipulate a copy of the production for my purposes in analysis, exhibits for trial, etc. Each of my client's production was maintained as produced, then I would do the same manipulation. We also had two other parties that had records produced, and I followed a similar process. When I wanted searchable PDF, I created it.

Not all would be comfortable with the manipulation and preservation of records, but it worked here. I worked in several versions of PDF, as sometimes I ran into weird compatibility issues and I would then use an alternate package (I have several versions of Nuance, Acrobat and a few others).

Case settled about a week before trial. I had an associate work with me to print and organize everything in 4-inch binders, since the courtroom did not have technology other than what I was bringing. In trial you have about five seconds to lay your hands on something, so I wanted both paper and electronic versions of everything. I don't remember how many boxes of pleadings and paperwork we had in trial binders, but I think I ordered about forty binders to supplement what I already had in inventory. My associate nearly quit after all that work organizing when the case settled.

Darrell G. Stewart

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This is very helpful. Darrell, thanks for the details. I guess that you did not need to worry about metatags on the documents or ensuring that the pdfs were "original" documents, rather than tampered with or smoothed over recently in preparation for the litigation. Also, I guess that photos were easy to save and access as jpegs and tiff files (and then they could even be integrated into adobe acrobat pdf files if desired). What you describe is infinitely easier than using the razzle-dazzle ediscovery platforms. Also, what you describe fits the necessary organization required in preparation for actual trial or settlement conference.

Roberta Fay

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We weren't fighting about metatags. I don't think opposing counsel would have understood it. This was commercial construction litigation. Although some of opposing counsels' production was post-litigation pre-trial created just to make an argument paperwork that would have been fun in a courtroom.

Darrell G. Stewart

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Thanks. Really appreciate your emails about this subject matter.

Roberta Fay

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What software did you use? Thanks.

Kenneth A. Sprang, Pennsylvania

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Kenneth, if you are addressing your question to me, the answer is -- none so far. I am looking as much as possible but using pdf files (or tiff files converted to pdf) inside of adobe acrobat is what I am "settling" on for the present. If there is a sw program that will convert native format files into pdf or tiff files --- and maintain any metatags (and original file structure/words), then that would be great. Then, with that one step or sequence, we could handle even large pdf files without the need of a computer e-discovery consultant (and all the attendant expenses with outsourced e-discovery matters).

Unfortunately, I don't know any specific program to just do that particular task. Some e-discovery platforms purport to "do it all" but they quickly become very expensive.

Good luck to all of us.

Roberta Fay

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I have had two run-ins with Relativity for big cases, as a small firm with small firm infrastructure. Both convinced me that Relativity, or more precisely the NEED for Relativity, should be avoided at nearly all costs. The root of the problem is that this type of doc review software is geared toward big firms with IT departments, countless document-intensive cases, and a vested interest in burdening opposing parties in litigation. As many judges and ediscovery pros have noted, this knee-jerk practice of turning everything into a tiff file for loading into Relativity or the like is neither warranted by the discovery rules nor practical in most cases, and can actually be contrary to the rules.

The key here is to know your court's e-discovery rules inside and out, and to beat the other side to the punch when e-discovery protocols are being exchanged! In even highly doc-intensive cases, small firms are often best served by asking for production of simple text-searchable pdf files, with the exception of a few file types (audio, video, excel) which should be produced in native format. Then leave yourself an "out" to be able to request native word processing files upon a showing of need. That's it. If they fuss, get the court involved. EARLY.

Adobe Acrobat is nearly free and is vastly superior to every lawyer-gearred doc review software I have every tried.

DO NOT agree to any big firm standard e-discovery protocol.

Craig Ball's blog (<https://craigball.net/>) is an incredible resource on keeping ediscovery productive and inexpensive.

Finally, don't hire a non-lawyer ediscovery firm. While non-IT oriented lawyers sometime misunderstand IT, non-lawyer IT professionals WILL misunderstand your discovery rules and objectives, and bill you many thousands of dollars for it. The rub is this means you need to be versed in the technical side of ediscovery. That's not aspirational; many state ethics opinions so hold.

Good luck.

Tony LaCroix, Missouri

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Tony LaCroix, thanks for your detailed email message, especially about adobe acrobat's utility in this particular area. I really like your ideas about specifying 'an "out" to be able to request native word processing files upon a showing of need' and involving the court early. Under CA law, we can send an instruction letter about how we receive discovery documents.

Roberta Fay

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Relativity is the gold standard for the last couple of years. It's intuitive and highly adaptable. My only concern has been the pricing. They realize it's a market leader and have priced accordingly.

You'll be happy you used Relativity. It will actually save your clients money because of the ease of use.

Roger Traversa, Pennsylvania

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Roger, are you saying that Relativity is better than Logikcull and other related products as well as most IT consultants in this area? I did not know.

Roberta Fay

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Paperport pro puts all documents into an "all-in-one" searchable db. You can set it to do it upon scan OR set it to read and add all files, or both.

Cheap, easy to use.

YMMV.

Russ Carmichael, Pennsylvania

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Thanks!

Nuance PaperPortPro works directly with windows explorer, according to this link.

<https://www.business.com/reviews/paperport-pro-document-management-software/>

Does PaperPortPro work okay (that is, as well) with Firefox, chrome, opera, and pale moon? I don't use windows explorer on my desktop set-up. That is why I ask.

The reviews on various places are very favorable.

Roberta Fay