Litigation Support Department

Abridged - Sample

Mark Lieb
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Testimonials

Attorney Opinions

"It's a thorough, hands-on roadmap of how to set up a litigation support department and how to make an existing department better, written by someone with actual experience in creating a successful lit support department. In short, it's exactly what you would like to have at hand when building a lit support department. It includes checklists, useful files on CDs and a detailed roadmap of the steps in the litigation process where lit support personnel can be employed effectively. If you have the task of creating, building or managing a lit support department, get a copy of this book as your starting guide. It'll take you a long way."

- Dennis Kennedy, Attorney, DennisKennedy.com

Mr. Lieb's expertise focuses on the full range of modern electronic discovery. He has been instrumental in creating a robust infrastructure for providing electronic discovery services within the firm. In addition, he was the principal author of Gray Cary Ware & Freidenrich's *Litigation Support Technical Standards*. This document has done much to enhance communications between vendors and end users.

- Browning Marean, III, Partner, DLA Piper Rudnick Gray Cary US LLP.

Mark Lieb's litigation support best practices ideas are a great resource. Mark has distilled his extensive real-world case management experience into a set of standards that make it easy for law firms to organize the litigation support function and shows us how to use technology to tame case complexity. Very impressive stuff!

- Greg Krehel, Attorney, CEO, CaseSoft

A Paralegal Opinion

"I estimate that using the template Specs saved me at least 50 hours of independent research in drafting the E&A Vendor Specs...The work that I received back from the vendor using the specs was absolutely perfect and loaded and tested without any errors."

- Priscilla Rush, Paralegal, Edwards & Angell, LLP

A Litigation Support Professional Opinion

"[I] have worked as a Litigation Support Specialist at a firm and basically created the department and its standards. However I grew frustrated with the office politics of not knowing how to involve Lit Support with the firm's practices. I wish my former employer had the same foresight as my current one to utilize the standards and practices proposed by this book."

- Domingo Rodriguez, C2 Legal

Clients

Ad Litem Consulting's clients include a diverse base of law firms, litigation professionals, corporate counsel and industry vendors from multiple countries and continents.

Ad Litem respects the wishes of law firms for anonymity and gratefully acknowledge and thank those who allow use of their name below.

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- ...and many more.

Ad Litem Consulting is in discussion with educators from law and paralegal schools as well as industry training programs for use of the book in classrooms.

Learn how Litigation Support can pay for itself by providing a consistent lifecycle experience to the legal team, vendors, clients and opposing counsel.

Ad Litem also provide consulting on both individual cases and for law firms that wish to implement best practices.

Preface

Every law firm has its own personality and culture, often with people who have been there for ten, twenty or more years. In this sort of environment, instituting a new system can be difficult, if not impossible. However, the current state of Litigation Support in most law firms could do with a complete overhaul in order to deal with the various documentation needs demanded by the average case. Attorneys do not have the time or interest in distinguishing between single page .TIFs versus multi-page .TIFs: they simply want to start looking at those images. Who can take ownership of this type of technical consideration, thereby leaving attorneys and paralegals to the law? That is the purpose of this book.

The system described here offers a set of tools to assist law firms in setting up a Litigation Support Department, dedicated to provide clear procedures that will bring order to the currently chaotic world of Litigation Support. Ultimately, the procedures and methods described in this book give the vendor and support staff a common frame of reference. Litigation Support gains the trust of the legal team and gains technical project management responsibility for all forms of discovery.

The real issues in Litigation Support work are work flow and delegating authority. Litigation Support manages all the discovery projects, database administration and data analysis work; often, this work is done in an ad-hoc manner, and has no real defined procedures or methodology. That type of "system" is management by abdication, not delegation.

Whether there are ten litigators or a thousand, a law firm must implement a unified strategy to Litigation Support or drown in the very data its clients generate. It used to be that one lawyer could literally swamp another in paper and thereby push for a settlement. Today, the recipient of one banker box of electronic discovery can spend years looking through documents and categorizing them -- assuming that the client can afford to turn that discovery into a reviewable database.

This book explicitly outlines how to organize everything for cases, departments, and the firm. It also covers strategy such as knowing what and when to outsource work. Cost recovery is a major issue for every firm. Services such as computer forensics and database creation may run into serious money for an individual case. Should the firm bring certain services "in-house"? All firms, regardless of size, must address many considerations having to do with mitigating risk, cost recovery and creation of a litigation technology plan.

This book attempts to outline how to run the department as a business. It shows how to organize the data and people so that your department can accommodate a growing volume or work. The book also includes operating procedures for supporting a case, from pleading to trial all from a litigation technology perspective.

This book is intended to provide a firm with the knowledge necessary to implement its own Litigation Support Department, run as a business, and thus able to save and indeed make money for the law firm that it supports.

About Mark Lieb

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Mr. Lieb has provided Litigation Support to legal teams for cases ranging from small collections to multi-national, multi-firm litigation, involving millions of pages of discovery. He currently consults with firms, service bureaus and software companies on litigation technology and standards.

Mr. Lieb is the co-founder and technical hand behind the Litigation Support Vendors Association. The LSVA, a not-for-profit organization, provides online forums and discussions moderated by industry experts and representatives from major software companies, and covering topics from computer forensics and electronic discovery to best practices and standards.

In March of 2004, Gray Cary Ware & Freidenrich generously made *Litigation Support Technical Standards* public to help the industry formulate standards and best practices. Mr. Lieb continues to update the document; as of November, 2005, the document has been downloaded over 1,600 times by a wide range of vendors and law firms.

Litigation Support Department, Mr. Lieb's most recent book, outlines both how to run the Litigation Support Department, organized as a business, and how to use technology to support and help win the case. The text discusses how the Litigation Support Department can provide a consistent product and experience for the legal team, vendors and associated parties. The book includes discussions and diagrams of case life-cycle, work-flow, budget, strategies, tactics, check-lists, roles, responsibilities, and more. Also included is a Litigation Budget spreadsheet file, among others. Establish standards in your firm and enjoy the benefit of consistency.

Mr. Lieb provides consulting services for individual cases and firm-level best practices implementation that can save a firm hundreds of thousands of dollars in operating costs per year.

To Litigation Support Professionals

In most law firms, an argument between attorney and support staff will always end in favor of the attorney, and the dispute will probably not be mediated by the managing committee. The question is not how to win these disputes; it is how to get both the firm and the firm's attorneys to delegate certain authority to Litigation Support, and then to support that delegation by providing enforcement of procedures.

Many people comment about how different from a corporation it is to work in a law firm, where the commodities being provided are billable hours, legal advice and filings. Despite this, a law firm is a business—and like any other business, a firm will take actions that make business sense.

This book enables one to build the case for resources, standards and firm-wide compliance. Several methods of institutionalizing the procedures recommended by this manual are as follows:

1.   Have the Accounting Department use cost codes to track all vended litigation technology goods and services, such as ediscovery processing;
2.   Bill clients as any vendor, attorney or paralegal would;
3.   Move all discovery vending through Litigation Support;
4.   Institute a Firm Standards document; and
5.   Understand case lifecycle.

Cost Codes

A cost code is how a company (law firm or any other) tracks where it spends money. Accounting keeps track of how much a company spends on every category of business, from supplies to legal research, in order to identify spending trends and other numbers necessary to usefully allocate financial resources.

With regards to Litigation Support, assigning cost codes to items such as discovery and litigation technology is a fundamental first step in tracking the contributions and value of a Litigation Support Department. By assigning cost codes and having the Accounting Department track these items, Litigation Support can:

- Spot cases where teams are vending discovery on their own;
- Determine future firm or departmental resource needs;
- Build a case for bringing types of work "in-house";
- Identify what types of litigation technology services are growing or shrinking;
- Argue for better rates with vendors; and
- Identify how much Litigation Support billable time is "written off."

If "electronic discovery" shares a cost code with "legal research", then management receives a skewed financial picture. This book has the Litigation Support Department

work with the vendors to have them incorporate the appropriate cost code into their invoices. The Accounting Department would normally have to look up this code every time an invoice arrives. Incorporating cost codes saves the firm time and can help the vendor get paid more quickly.

More information about "cost codes" is available in the Cost Codes section of the text.

Billing

In a firm that does not bill Litigation Support's time, the point of cost coding is to get Litigation Support Department goods and services on the Accounting Department books. Don't be too disappointed if attorneys decide to "write off" the bill, because at the end of the month, quarter, or year, Accounting can present the total potential income to the firm—both the total billed and also the total written off. At that time, the firm will be able to see what kind of revenues the Litigation Support Department can generate. Then, presumably, partners will talk to the "write off" attorneys.

These accounting reports are the tools that your department can use to make the business case for additional staff. When a department member bills $150,000 a year (1,000 hours at $150 per hour), the decision and ability to add staff, supported by accounting reports, is much simpler.

Remember, if a vendor would bill for the work, Litigation Support should too. The question of rates is one for each firm and the marketplace to decide.

Centralize Vending

There are definite advantages to having one department handle the vending of all electronic and paper discovery; that department can get better rates and spend time finding the best vendors. Paralegals and attorneys do not have the time.

Further, when the Litigation Support Department administers all litigation technology for the firm, the Department can work directly with the vendor, explaining technical requirements.

The Litigation Support Department can also concentrate on project management. For large cases and "rolling" productions, the Department can provide weekly reports and make certain each attorney understands key issues along with budget and deadline updates.

The final advantage for the Litigation Support Department is that vendors deliver a higher quality product that matches internal technical needs. The attorneys and paralegals get quicker turnaround times coupled with lower bills from the vendor and Department.

Institute a Firm Standard

The greatest problems for Litigation Support today stem from technical details. Sample considerations include any firm preferences for file format, which metadata fields the vendor should capture, database field names and field order. These answers are not case specific. They are firm specific. The same answers should apply irrespective of client, matter or attorney. A document that outlines all the possible specifications will operate as a template, and when these specifications are not met, the Litigation Support Department must make appropriate adjustments. Often it is more expedient to correct the vendor delivery than to have the vendor attempt another potentially incorrect product. If Litigation Support bills this time to the client, the client is essentially "double-billed."

Through institution of a firm-wide standard, all incoming product will match the firm's technical standards, or "template." The Litigation Support Department can then pre-qualify vendors. Any vendor who can match the firm template is thereby qualified to perform that service for all firm cases. Litigation Support can point to the firm's technical standards when any vendor product does meet the firm specifications.

This template, *Litigation Support Technical Standards*, is available as a free download from the Ad Litem Consulting site, http://www.eDiscovery.org. It is also included at the end of this book.

Understand Case Lifecycle

Everyone must understand the litigation case lifecycle but for different reasons. The attorneys and the paralegals need to understand how to use technology at every phase of litigation to win the case. They must also understand how to use software options to strategic advantage. Through such means, a very large collection of materials may become much smaller. However, strategy must extend beyond the collection, review and production phases.

The Litigation Support Department and the legal team must understand technology will enable the team to identify useful documents, and use them as exhibits. As every case lifecycle is the same, so the technology and considerations are the same. Only the legal team cares about the document content. Consistent approaches to technology for all cases means a minimal learning curve for the legal team member and the Litigation Support industry professional.

Litigation Support professionals need to understand how the legal team uses the content of the database to win their case. If technicians understand the larger picture, they can perform a better job. When technicians understand how technology applies to the business for the entire case lifecycle, they can help the team.

To Attorneys and Paralegals

It is my hope that attorneys and paralegals can see how to leverage their Litigation Support Departments to their advantage, allowing for quicker turnaround and lowered internal and vendor costs.

This book does not limit the attorney's ability to litigate as they see fit; rather, it is intended to show an attorney how to use software and hardware to support their litigation efforts.

For example, in electronic discovery, attorneys may wish to forgo the creation of accompanying images in their database due to the high up-front costs, thereby forcing the reviewers to base their opinions only upon the database record text and not how the document would appear if printed. This makes review a slower process. At the end of discovery, with production looming, they then pay to get the database "tiffed." This is akin to fixing up your home just in time to sell it, and is just as stressful; having the TIF images from the beginning would have made review a lot easier, and review must be stopped in order to allow the vendor to create the images and cds, and ship them for firm quality control (or "QC"). If the images had been generated at the start of the case, there would have been more time for review and less stress for all involved.

When the legal team identifies all potential sources of discovery for a case and how it will be used, Litigation Support can create an appropriate technology plan. The more quickly Litigation Support and the attorney communicate, the easier discovery is to manage. This type of procedural approach minimizes both errors and stress. Every case can benefit from the use of technical standards.

At the start of the case, the attorney should come to an agreement with opposing counsel as to production format and other technical considerations. Without such an agreement, one may have to pay a vendor large amounts of money to convert the production to a format the firm can use. This agreement should be made with the involvement of Litigation Support personnel on both sides. These issues can mean the difference between immediate access and access that takes days. Delays have a compounding effect.

This book will also show how to store information such as transcripts and CaseMap files on the server in an organized format. This type of simple folder-naming scheme makes life easier for users and support staff. If attorneys store their work in random fashion on servers, how will anyone else find those files? The use of client matter number folders has a few other benefits, including income generation, which are covered in more detail later in this text.

I. Hierarchy

Some would argue that because every law firm is different, there cannot be one correct way to organize and operate the Litigation Support Department. Some firms put the Litigation Support Department under the Information Technology ("IT") Department head count, while others put Litigation Support under the paralegal department. Other firms may decide to make the Litigation Support Department a separate group unto itself with its own budget. The real concern should not be how the department fits into the official firm hierarchy; rather, what are the internal operations of the department and how it interacts with its customers: firm legal and support staff, outside vendors, and outside counsel. The system outlined in this book helps ensure the department provides the same experience and quality product, irrespective of firmwide organization or department size and from case to case.

However, the firm hierarchy can benefit the existing Litigation Support Department: for the department to run as a business, it must be organized as one, with an internal hierarchy that matches a typical business hierarchy, with managerial, accounting, and technical roles. Irrespective of a specific person, these roles and their associated responsibilities are always the same. Therefore a change in staff size is a matter of assigning roles in order to balance work load. These roles ensure the person knows not only their appropriate responsibilities, but how to achieve them.

Soap Box:

As the nature of the work is technical, not legal, it is the author's opinion that the Litigation Support Department should reside in the IT department. The term "Litigation Support Department" is a misnomer. It should be more accurately called the "Litigation Technology Department". Allow the paralegals to concentrate on the law and the Litigation Support staff to concentrate on the technology choices and direction.

Fortunately, by the adoption and application of standard operating procedures, the person filling the management role for Litigation Support does not need an IT background. The

technical requirements are already outlined for the person performing the technical work. The managerial role makes certain the resulting product matches the firm technical requirements.

Your firm may decide to use Litigation Support purely for project management and technical guidance. Your firm may decide to bring electronic discovery in-house. The hierarchy approach should accommodate all of these strategies.

1. Traditional Business Hierarchy

Every business—and in this book, Litigation Support is viewed as a business-- needs a hierarchy. If your department includes just one or two people, then each person may need to fill multiple roles, covering all aspects of the business.

For example, let's look at accounting roles. Your law firm has an Accounting Department or at least a CPA firm on contract. They are responsible for tracking finances on both case and firm levels. The Litigation Support accounting role makes certain everything billable, and potentially billable, goes into the accounting books. If the department created 200 CDs in January, the person filling the finance role makes certain the $5,000 charged for media creation appears in the firm's accounting books. The Accounting Department provides the Litigation Support Department and firm with reports charting spending and other trends. This information is an important index of your Litigation Support Department and Litigation Group activity. Even more important, the best way for Litigation Support to get the firm to spend money on additional people, hardware, and software is to use accounting numbers as the basis for business decisions.

It is interesting to note that, in the chat below, the top position in the hierarchy is traditionally the "shareholders." As the lawyers are the only "shareholders" in the firm, this is not so far from the truth. Partners are lawyers who are shareholders. Associates are attorneys who aspire to become shareholders. As such all attorneys appreciate a department which helps them win their cases while reducing and recovering costs for both the client and the firm.

Let's take a look at the traditional business hierarchy and see how it applies to the Litigation Support Department.

II. Services

From a risk management perspective, all law firms must be very careful when considering what goods and services to render. The question is not always one of ability and capacity: one must also consider which responsibilities and liabilities accompany those services.

As example, the client of one of the attorneys supported by your Litigation Support Department brings in a former employee's laptop. The client believes the former employee deleted key files. Bob, from the law firm's IT department, retrieves deleted

files. The technician's credentials should meet or exceed those required to meet the legal scrutiny by opposing counsel. Bob may have to take the stand and testify. Will he provide the other side with the opportunity they need to cast doubt over all resulting exhibits? Attorneys hesitate to buy goods and services on behalf of their clients unless they can justify the expense. There have already been cases, and I predict there will be more, where issues of this sort can result in rulings and sanctions against a firm and its client.

This is not to say that one should outsource all litigation industry goods and services. In reality, your Litigation Support Department should be able to perform basic technical duties—even if they refrain from doing so at particular points.

The need to perform basic technical work in-house is absolutely critical, because 30-minutes of in-house work is better than suffering through a 2 hour turnaround time from a vendor. Practically every time a CD arrives from a third party, there is some amount of technical work to perform. The CD may be missing a load file, or some Access database work may be required. Again, it is better to have that 30 minute in-house option when deadlines are tight and you don't have time to send the product back to be re-done by the vendor.

The basic reality of this situation is that firms with Litigation Support people who can perform sophisticated technical duties in-house will be much better off strategically than firms whose Litigation Support people cannot perform average to intermediate technical duties. This disadvantage can—and sometimes does--lose cases. Again, the ability to perform a service internally does not mean the department should do so for all cases.

Assessing Your Department's Abilities

If your Litigation Support Department cannot perform a service to the same standard as a vendor, it is wise to outsource it. Many technical people think, "If I can visualize the solution, I can undertake the task". This mindset disregards the fact that the need to complete the task successfully in a timely manner is the most important goal, and should support the good of the case.

Cases may last for years, moving from periods of high activity to long periods of dormancy. Litigation Support (or a vendor) can expect sudden technical requests with short turn-around times following these months of inactivity. For example, an attorney might call needing new CDs containing the results of various searches. If the database is complete with all appropriate images, fields, data and tags then such a request is simple to fulfill. If, however, the database is flawed or incomplete, Litigation Support may be unable to fulfill a request in a timely fashion. Bear this caution in mind as you decide what responsibilities Litigation Support should shoulder and providing it with the appropriate internal resources.

When the firm decides to offer a service, it must invest in the necessary resources to ensure successful support. As the Litigation Support Department can pay for itself and save clients money through the addition of a service, this opportunity has great appeal. A

firm may be tempted to believe a minor investment will result in significant cost recovery for the firm and client. As the decision to bring a service in-house must be a business and legal decision, one must first address the state of the department.

One baseline for any Litigation Support Department is the division between project management and technical work. In both small firms with one Litigation Support professional and large firms with multiple professionals, a single person will fulfill both the project management role and technical role. The larger departments may divide the work for every case by the role, and subsequently responsibilities.

When a department decides to provide a new good or service to the firm, the initial consideration is who will actually perform these new duties and whether they have the time to do so without detriment to their other responsibilities.

Department and Firm Level Initiatives

The goal of these tasks is to organize and manage internal firm operations. The Department COO undertakes these initiatives in an effort to bring order and consistency to litigation technology in the firm. One example of such an initiative is the organization of folders on file servers. This goal does not directly further any case goals. It does, however, benefit all litigation. Other initiatives require the support of the managing partners, such as instituting a firm technical standard or moving the responsibility for contracting electronic discovery goods and services to the Litigation Support Department.

Firm Level Initiatives
- Assign Roles to Persons Roles (then assign responsibilities to roles)
- Personalize the Technical Standards (publish a firm standard)
- Assess the Firm (and determine course of action)
- Initiate a "boot camp" where all Litigation Support persons learn the best practices template)
- Begin Tracking Billables (to pay for resources)
- Organize the Network (to begin applying security and disaster recovery)
- Qualify Vendors (and exclude bad vendors)
- Resource Initiatives (hardware, software and people)
- Determine Services (what to perform internally and what to outsource)
- Update the firm's "Client-Matter Intake" (at what stage legal should involve Litigation Support)
- Initiate a "Network Clean-Up" (the search for errant historical folders)
- Create an maintain a "Media Inventory" (the ability to locate any media for any case in moments)

Accounting

The Litigation Support Department can be an entrepreneurial dream.

Litigation Support doesn't worry about collecting payments. It doesn't need to make sales calls to drum up more work (although it should). It is similar to a preferred vendor—one that will exist as long as the firm exists, except that the people may change at any moment. This is the mindset the team should adopt.

Litigation Support's single greatest attribute is that the workers and storage capacity can generate revenue for the firm; not only can it generate billable hours, it can (if warranted) take revenue from other vendors by bringing the work in-house. This is not to say that a firm should do so. This environment can be exciting for the entrepreneurially-minded Litigation Support staff—and for a firm's Accounting Department.

Of course, not all attorneys want to pass Litigation Support billables through to their clients, but instead will tend to "write off the time." Luckily, Litigation Support doesn't actually need that revenue to stay in business. It just needs the financials tracked by the Accounting Department.

Later in this text, we will discuss approaches to take toward billing, cover strategy, and describe how Accounting fits into the Litigation Support game plan. Initially, the following three steps are important to get Litigation Support services on the books:

Step 1: Create vendor cost codes.

If the Litigation Support Department does not yet bill for various services, it can use a selection of actual vendor bills to help the Accounting Department understand which services to track.

Litigation Support needs Accounting to understand how these new codes will help the law firm as a business. If a service such as the processing of electronic discovery uses the same cost code as legal research, the firm is getting a skewed financial picture.

Step 2: Provide codes to all vendors.

Make certain all of your vendors include the required code information on their invoices. If the vendor knows to include the cost code along with other key information, the Accounting Department persons will have an easier time performing their tasks.

Include the cost codes in your firm's *Litigation Support Technical Standards* document. In this fashion every vendor will always have access to the code and know to include it in all invoices.

Step 3: Use codes on all invoices.

The best vendors will match the law firm's standard. As this includes what information to include on an every invoice, this can naturally lead into steps four and five, accordingly.

Step 4: Start tracking potential revenues.

The 6-month and 12-month accounting reports on these cost codes will help the firm intelligently decide how much funding to allocate for the growth of the Litigation Support Department and the need for services. At the same time, the department will provide storage trend reports. As electronic discovery is data intensive, one must plan for the cost to store this information, whether internally or with a hosting company.

Whether your firm bills for Litigation Support time or not, tracking potential revenue is important. At a certain point, the department may need additional staff. If each person bills 1,000 hours a year, the question centers more upon the ability to meet said hours than increasing firm budgets.

Step 5: Identify lost versus captured revenue.

Now that your firm or practice can identify potential and lost Litigation Support Department revenue, the appropriate firm committee can address the question of whether to bill. They can understand how much the firm spends for any given type of service. It is not uncommon to have a discovery project cost $20,000. This cost may not be sufficient to warrant firmwide change. However, when the firm considers the aggregate cost for ten projects each year, the totals may warrant firmwide change.

Now that your department is able to justify income, it is time to justify expenses. There are certain hardware and software tools every law firm should have. These tools extend from the Litigation Support Department to the legal team. For the team, a second monitor will improve everyone's document review speed. This small cost will greatly improve moral and reduce eye strain. The firm can use the second monitor for all cases. The author's research determined that a second monitor, not simply a bigger monitor, provides a better result.

At the same time, the firm should consider risks and responsibilities before attempting to bring any new services in-house. One cannot deny that the single service of project management on the part of Litigation Support is a vital service and will ultimately impact the case as a boon or a burden.

Budget Estimation

Creating a budget for litigation technology goods and services is not an easy chore. Before electronic discovery, one could multiply the number of boxes by 2,500 and estimate the page count. An industry average of 3 pages per document was generally sufficient for estimating the costs for any special treatments, such as bibliographic coding. Electronic discovery changed this.

While a "pages per box" ratio is simple, it is more difficult to estimate the total number of pages by the total GBs. This is because the format and content of electronic discovery can be as varied as the number of software titles which run on anyone's computer. A GB of one type of file may yield thousands of pages, while another file type would only yield hundreds or dozens of pages. This makes any generalized pages per GB ratio almost useless. Fortunately, the bulk of ediscovery is of a single file type, email, and this can be estimated, after all. Therefore, one can create a fair estimate based upon the pages per email ratio. Use the included budget spreadsheet to perform this task.

Note: For large ediscovery projects where the vendor delivers the discovery database incrementally, the Litigation Support Department can update the spreadsheet to reflect real versus estimated costs.

Before ediscovery, the number of treatment options, such as bibliographic coding, was limited. One could scan, OCR, code and annotate images. This all changed with introduction of ediscovery. Not only may ediscovery require treatments and services, unknown to paper, but it may afford the legal team new options. Almost every option, such as hosting and native file review, present new potential costs. Some one these costs occur only once. Some costs are recurring. To estimate hosting, one should know the total storage size in GBs, number of months required and number of people who will need to access the system. Fortunately, the budget spreadsheet accommodates this option, amongst others.

Litigation Support should use the budget spreadsheet to explain potential technology costs to the attorney. The spreadsheet is a very straightforward way for anyone to understand the relationship between price and quantity. The attorney can then use the spreadsheet to explain costs to the client.

The budget spreadsheet includes multiple worksheets. The first worksheet is for the budget. Subsequent sheets are for tracking projects, keywords and names, and finally a place to store everyone's contact information. This information is especially useful for cases that were dormant for a long time, or if one person must track multiple matters.

Note: This spreadsheet used in conjunction with the case lifecycle project plan can prove invaluable to resuming work or learning the case's ediscovery history.

III. Needs Assessment

The goal of the following pages is to provide the reader with a complete assessment of Litigation Support technology and operations at their own firm. The purpose of this assessment is to help the firm identify areas which need may require attention. The book outlines many strategies and approaches toward resources and rights. The needs assessment section provides the reader with the ability to compare current practice to the template outlined in the book. The Litigation Support Department COO should perform the assessment.

Assessment Areas

- Financials
- User Tools
- Storage Assessment
- Firm Technical Standards
- Litigation Support Software
- Department Hardware Capabilities
- Video
- Media Inventory
- Project Management
- Network Configuration
- Backup Routines

- Disaster Recovery Plan
- Training
- Departmental Operations
- Political Abilities
- Ability to Bill
- Vendors

The book outlines a template for a Litigation Support Department. The department identifies areas that require consideration. As the reader assesses their own department and firm, they should use the book as a reference. The book will explain why considerations in a given area are important and identify interdependence with other areas, such as folder organization, backups and security.

The question of which area to concentrate upon first is difficult. From a Litigation Support Department VP of Operations standpoint, the first recommended area is the adoption of the technical standard. The results will eliminate a lot of unnecessary technical work and thereby allow the technician time to work on other areas, such as storage and backup. A VP of Finance would recommend addressing cost codes and billable time, as the financial reports provide the basis for all business arguments. Further, these changes are administrative and require the least work resulting in a large benefit for the department and firm.

Although this book also outlines an implementation strategy, the unique culture and tradition found at each firm may dictate a different route. Regardless of the firm, the department can still execute most of the strategies, including the use of the budget spreadsheet, case lifecycle task list and departmental organization of files, folders and data. Use of cost codes may be the most important victory for the department as the resulting reports provide the best arguments for firmwide institutionalization of technical standards, prequalified vendors and documented Litigation Support best practices. The final result of this phase is the collection of revenues for internal goods and services. The department invests this revenue in hardware, software and personnel.

IV. Tools

There are tools that each Litigation Support Department employee should have in order to work efficiently. The same is true of the person performing document review. When we do not have the proper tools, it may take longer to perform some or all tasks. Remember, litigation is deadline driven, so anything that helps get the job done more quickly is valuable.

Consider the robotic CD/DVD duplicator and burner which can free up hundreds of billable hours. If Litigation Support must generate each CD manually, then the technician must attend a manual, and essentially non-technical, process. The Litigation Support

technician can load a stack of blank media and return in the morning to collect three complete sets of duplicates, labels included. A minor investment by the firm frees the technician to perform other, higher level, tasks for the firm.

The following sections cover the types of hardware and software recommended for any attorney performing review and for Litigation Support professional dealing with data. One may have a preference for one brand of spreadsheet program over another, but the need for a spreadsheet program of some sort exists.

The goal of software and hardware is to aid the speed and quality of the real work. These tools make your firm more profitable by:

1. Increasing the number of documents reviewed per hour;
2. Increasing the amount of time available for review;
3. Decreasing the amount of time spent performing or overseeing non-technical clerical tasks;
4. Decreasing the time required to perform technical tasks; and
5. Decreasing the turnaround time to create and load productions.

V. Litigation Case Lifecycle

A consistent case lifecycle provides the Litigation Support Department with the ability to offer a consistent technology plan, applicable to all cases. The following sections trace the case lifecycle from the perspectives of software, project management, and discovery, from collection to trial.

For the purposes of this book, there are nine phases to the case lifecycle. Phases 1 through Phases 3 are concerned with the creation and execution of a discovery plan for the case. Phase 4 and Phase 5 begin and end the review processes. Phase 6 is depositions, Phase 7, pre-trial preparation, Phase 8, trial and, finally, Phase 9, case "tear down."

1. Software Lifecycle

The firm should evaluate each software application based upon individual merits: consider ease of use, level of utility in achieving case goals, special capabilities, security and so forth. One consideration that must precede all others is how each application complements the other applications in the software lifecycle. The legal team should be able to transfer facts and images from one application to another without involving technical support. The Software Lifecycle outlines each phase of the case lifecycle and explains how the team and the Litigation Support Department can use software tools to achieve phase goals.

Best practices, as regards the software lifecycle, means limiting the amount of training, effort and cost to transfer information from application to application and phase to phase throughout the entire case lifecycle. Each tool must be able to seamlessly share information with the other tools and between team members during each phase. The tools in one phase must be able to share information with the tools in each subsequent phase. Each person's work in any application should be synchronized with that of the other team members. Access to the most up-to-date information by the whole team is vital to successful litigation.

A. Phase 1 through Phase 3

Preliminary through Finalize and Execute Discovery Plan

Results: The VP of Operations aids the attorney in constructing a litigation technology budget. This task requires a list of every potential discovery cache. The identification of key names, key terms, and culling preferences helps lower the cost estimate, by limiting the amount of discovery processed for review. The attorney's production agreement with opposing counsel includes technical considerations the Litigation Support Department can accommodate. Finally, the qualified vendor begins processing discovery, per the list of collections and schedule.

Litigation Support Strategies

Strategy is best when it combines both hindsight and planning. Because the litigation case lifecycle is a given and repeats with every new matter, it is possible to create a litigation support strategy applicable to every case. Process management works for all cases, regardless of size and complexity. Project management is where planning meets execution. The following strategies and results are fully documented, along with a task list, in the book. The attorney, paralegal, litigation support professionals and preferred vendors all benefit from the consistency of experience across cases.

Phase 1: Preliminary

Results:

The Litigation Support Department and attorney create an estimated litigation technology budget, preliminary list of discovery caches, list of key names, and key terms.

Strategy:

Use this information throughout the case. Put the important names, dates and collection information into the Case Fact Management Software. Use this information to identify, cull and create the preproduction discovery databases. Court reporters use these names and terms to provide a better transcript. Bibliographic coding companies, manual and

automated, use these words to provide better product, as well. These strategies should work for every case.

Phase 2: Discovery Planning

Results:

Litigation Support and the attorney update the technology budget, list of collections, and agreements regarding production format and ways to limit discovery formalized with opposing counsel.

Strategy:

If both sides can agree to limit all potentially productive discovery to those documents which where authored or received by key individuals, that contain a key word and also falls within a date range, it may be possible dramatically reduce the size of the database, number of hours of review and cost to the clients of both firms. The attorney can now be confident that his team will be technically capable of producing to the required format of opposing. Additionally, the legal team knows that they will receive productions in a format their Litigation Support Department prefers. Again, this saves time and cost to all parties.

Phase 3: Finalize and Execute Discovery Plan

Results:

A qualified technician, employed by firm or vendor, begins collecting and processing discovery per the matrix, schedule and culling preferences. As the Litigation Support Department has prequalified the vendor, the technical aspect of their goods and services will match the department needs.

Strategy:

This minimizes turnaround times on the parts of both the vendor and the department. The strategy is to get all materials in front of the review team in the least amount of time. On a large project with a rolling production, the Litigation Support Department can update the budget to reflect actual costs and deadlines as pertain to each collection. In this manner, the Litigation Support Department can keep the legal team informed as to total cost and schedule.

VI. Supporting Files

The following files are protected by copyright, Ad Litem Consulting, Inc. Please feel free to update generic information on these files, such as firm name and firm contact information. The Ad Litem copyright must be kept in tact. Some of these files are found only inside the book, others appear both inside the book as well as on the included CD.

Files

- Case Lifecycle Task List
- Collection to Production
- Department Status Reports
- Deposition and Trial Resource Sheet
- Discovery Lifecycle Flowchart
- Litigation Budget Spreadsheet
- Litigation Support QC Tasks
- New Matter Assessment Email

- Server Organization Email
- Vendor Compliance Email
- Technical Standards

Case Lifecycle Task List

This task list walks the Litigation Support Department through the entire case lifecycle. By following this lifecycle, the Litigation Support Department provides all parties with a consistent experience for every case. This lifecycle meshes with the flowchart, budget spreadsheet, and technical standards. While the task list assumes the Litigation Support Department has achieved a complete and successful implementation of the principals outlined in the book, use of this list does not require it.

This lifecycle matches the discovery lifecycle flowchart (included here). Whereas the flowchart provides an understanding of how discovery flows as the case matures, this task list details the actual project management steps. As the flowchart illustrates potential loops where steps repeat, such as rolling productions, associated tasks may repeat accordingly.

Litigation Support does not always begin work during the pleading phase. As such, the department's first task is to begin handling the case, and data, according to the task list. Only then can both the Litigation Support Department and legal team be certain they are following a proven technology plan that minimizes the chance of future technical problems.

The reader should only use the lifecycle task list in the book for reference purposes. For actual case work, the VP of Operations should create a fresh copy of the included Microsoft Project file, as included on the CD, named for the client matter number. The Litigation Support Department technician or project manager will update this file as the case progresses.

Throughout the case lifecycle, the Litigation Support Department will need to perform standard tasks, e.g., generating blow-backs, dealing with legacy databases, incoming media, and generating productions to opposing. These tasks are too involved and occur too sporadically to place in the lifecycle. Therefore the lifecycle references these "supporting" tasks. These tasks actually reference each other. To learn more about the tasks, please read the section, "Litigation Support Tasks".

Although the flowchart only covers up through the production phase, through the following lifecycle sections, one can understand how the department and legal team use the document review software for exhibit purposes.

Discovery Lifecycle Flowchart (Sample)
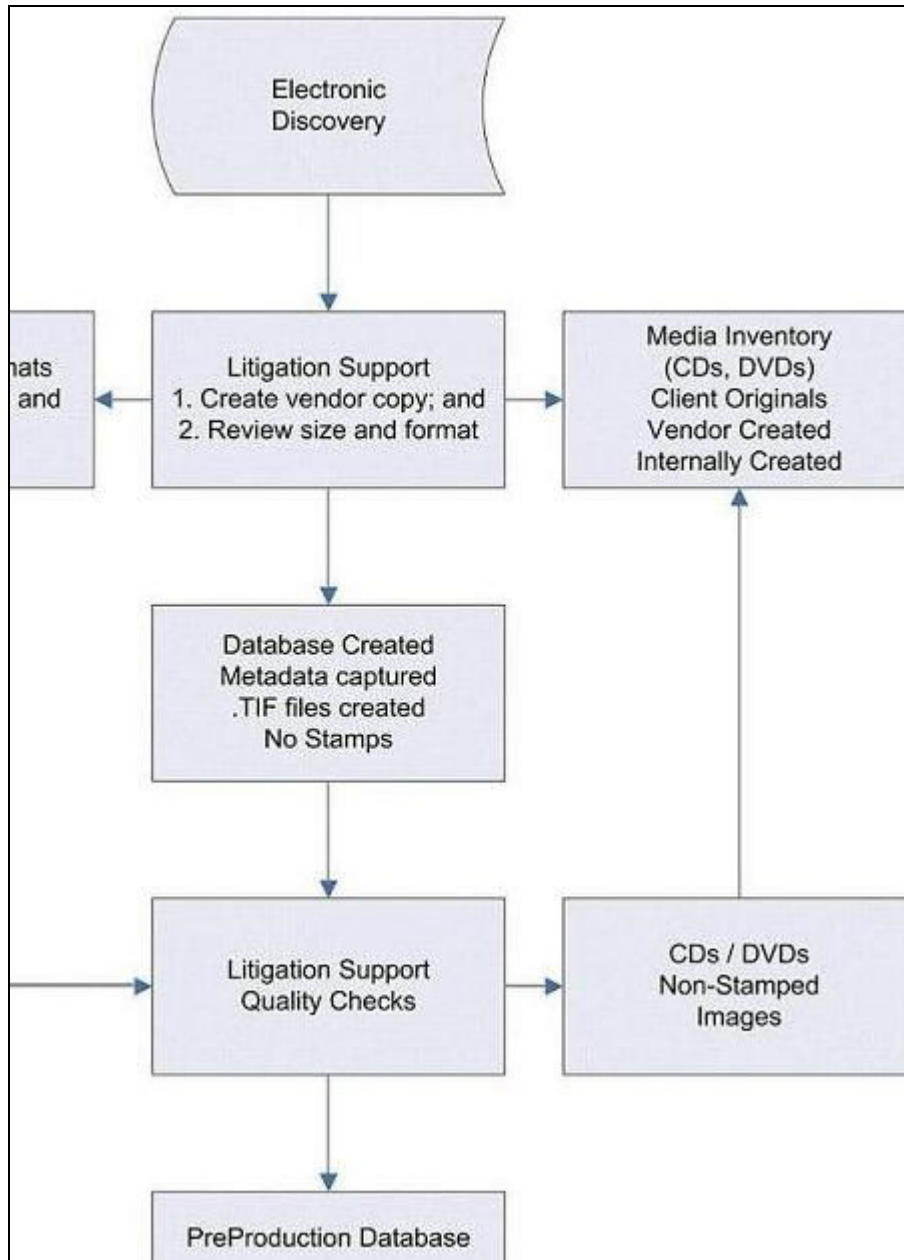
The Book (with CD)

To obtain a copy, please visit http://www.AdLitem.com. Through the website, one may pay with credit card or a check. The site can also generate an invoice.

Book

The concepts and strategies in this book save the client money, team time and firm cost.

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7. Size: 8 ½ x 11 text book size with CD-ROM
8. Binding: Library Binding - Hardcover

CD

Supporting files, included either on the CD or inside the book as a template:

- Case Lifecycle Task List
- Collection to Production
- Department Status Reports
- Deposition and Trial Resource Sheet
- Discovery Lifecycle Flowchart
- Litigation Budget Spreadsheet
- Litigation Support QC Tasks
- New Matter Assessment Email
- Server Organization Email
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- Technical Standards

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