In-House Survey Suggests Best Practices For Vendors

By Ari Kaplan

In November 2013, I surveyed 26 predominantly administrative professionals throughout Fortune/Global 500 law departments. In addition to questions related to pricing predictions for hosting, review, processing, the future of predictive coding, the trend towards growing in-house teams and the expansion of managed services, I asked for their impressions of certain leading vendors in the market.

The diverse commentary they offered seems to reflect a compelling disparity in how different providers are communicating with their prospects and the legacy they are leaving with clients. In an effort give suggestions that help technology companies and service providers navigate a complex landscape increasingly impacted by influential peer reviews, I have compared a few consistent remarks below.

PRICING

"Their pricing is not competitive." vs. *"More expensive, but cost competitive."*

As one would anticipate, there were a number of comments about pricing, which has become a significant issue given

Eliminating Chaos in e-Discovery Preservation Through Technology, Workflows And Automation

By Beth King and Thomas Mullane

Organizations subject to potential lawsuits or investigation require a process for preserving information that may prove relevant to the matter. Yet for many organizations, the preservation process is often chaotic, time-consuming and error-prone. A recent eDJ Group survey found that "almost a third [of respondents] track the [legal hold] process via spreadsheet, while another third don't track the process at all." This reliance on manual processes creates glaring inefficiencies, and the lack of automated tracking mechanisms exposes organizations to costly mistakes and potential judicial sanctions.

How can organizations eliminate the chaos and risks in preservation for e-discovery? Technology and process can make a big difference, especially when simplifying and streamlining the entire legal hold process, from issuance to release. This article explores some of the key considerations for applying technology to defensibly eliminate the chaos often encountered during preservation.

ORGANIZATIONAL REQUIREMENTS

At its core, a legal hold is a notification, often an e-mail, stating that a lawsuit has commenced or is reasonably anticipated and the recipient of the e-mail must preserve all data potentially related to the matter. Simply issuing a legal hold notification does not equate to a defensible process.

While issuing, monitoring and documenting legal holds is fairly standard, different sizes and types of organizations have different priorities when preserving electronically stored information (ESI). Large organizations, for example, typically have hundreds or thousands of employees dispersed geographically and spread across business units. Legal teams need to be able to efficiently create, acknowledge and track all of the legal holds. Software can automate this process, as well as integrate with corporate information systems, such as HR and asset

e-Discovery

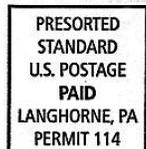*continued from page 1*

management, so that employee information can be quickly updated without time-consuming manual intervention or redundant data entry.

For small and medium-sized organizations, where individuals tend to serve in a variety of functions and where budget and time constraints may limit training, an intuitive user experience is paramount. All parties, whether attorneys, paralegals or custodians, need to be able to function quickly and effectively in the application from the very beginning.

All organizations, regardless of their size or litigation profile, can benefit from a solid legal hold process that automates reminders and tracking and produces documentation for demonstrating a defensible process. Manual systems are not only impractical in today's environment, where increasingly large stores of data are housed and transmitted electronically, but they also pose significant risks.

LEGAL HOLD
SOFTWARE CONSIDERATIONS

Following are the five essential considerations for legal teams to apply when evaluating legal hold software for their organization:

1. Ease of use.
2. High level of visibility into all preservation-related activities.

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3. Automation of the entire legal hold lifecycle.
4. Documentation/audit trail of every step in the process.
5. Integration with other systems that manage the organization's information.

Consideration 1:
Ease of Use

With legal hold software, there are two primary groups: 1) "Users," or the legal and IT teams who manage the issuance of holds, monitor the process and run reports; and 2) "Custodians," who receive the hold notices and interact with the software to provide the requested information. In most organizations, it's impractical to have a point person onsite to help individuals muddle through software that's difficult to use. Custodians need to be able to open the application, follow some basic internal guidelines and quickly fulfill their obligations. If hold recipients can't function in the software without getting frustrated, they will simply walk away — and that can turn into a big headache for legal teams.

In addition, the legal hold software should improve efficiency with features like reusable templates, built-in workflows that guide users through a series of sequential steps, and dashboards that graphically represent the process and make it easy for users to quickly drill down into specific areas.

Consideration 2:
Visibility

Any solid legal hold software application should allow users to see the state of the hold portfolio at any point in the preservation process. The application should easily track holds, acknowledgments, reminders, re-issuances and releases. It should also allow for the creation and issuance of automated reminders on a predetermined schedule, generating reports on who has or has not responded. This technology driven process should make it easy to specify which custodians are associated with which holds as well as show the current status of custodians who may be involved in multiple matters. For multinational

Analytical Glue

The Future of Analytic Solutions

By Eric Hunter

At Bradford & Barthel, LLP, we're leveraging Big Hand, Net Documents, and Tableau in concert with our existing systems toward a 5:1 cost savings ratio for the firm over the next three years. Our strategy is to position ourselves to compete in the most stringent pricing comparisons available within our practice area. How?

Analytics, both visual and predictive, is bringing transparency not only to targeted data within the firm, but also within our staffing models, our project models, and pricing and profitability modeling with our clients. In many ways, while positioning our future rates as more competitive than ever, we're positioning the firm to be far more efficient as a result.

When looking forward at B&B through our consultancy Spherical Models, LLC, we're using a combined view of knowledge, technology, innovation and strategic pricing in an attempt to best navigate the market disruptions of our industry, and strategically position us within the future of visual and predictive analytics solutions in our practice area.

The speed of the analytics solutions available today, the technology available to create multi-tasking on the fly, and the multiple collaboration and communication points —

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both as consumers and in executing business strategy — is extraordinary. How do we integrate all this? The future of analytics solutions is within the everyday activities we take for granted. It's within the daily news reports, sports clips and videos we read from our mobile devices, in that our preferences and behavior are being tracked while doing so.

Our personal and professional lives are becoming more and more intertwined through technology, as are the analytics solutions available through them. When stepping back and looking at our industry and the continuing market disruption of the future of the billable hour (how we view time, emerging alternative fee arrangements and the reality of falling rates), the future of analytics solutions and the technologies driving them becomes front and center strategy into targeting efficiencies, cost savings, and continuing relevancy.

STAYING RELEVANT

Taking into account the reality of pricing and profitability, falling rates, and their influence on alternative fee arrangements, we need to take a look at the emerging analytics integration tools available to law firms and clients and how they will continue to alter our business strategy. While doing so, we must continue to consider the usage of analytics in our consumer culture by the consumer search and social media giants whose tools we use every day.

When considering these two views, ask: Is it easier and faster to search and find typical day-to-day knowledge through Google and Bing than it is to find typical professional knowledge within our own organizations? Are voice-to-text and speech recognition evolving more rapidly in consumer culture than in our industry's organizations? Or, have our industry's vendors now begun to adapt their products just as quickly as consumer technology evolves?

Our acquiescence into integrating analytics solutions and the tracking available for our behaviors when us-

ing consumer technology as individuals is a key strategic aspect to consider as business leaders. Predictive trending through our consumer tools is something both we as consumers and professionals within our industry are just beginning to understand the ramifications of. In other words, we expect our consumer tools to evolve and work well, but then as our industry's vendors apply these consumer tools toward law firms, we're able to now capitalize on the analytics within these consumers systems that make their behavioral targeting not only work well — but make them possible, successful and profitable. These ramifications lead to business changes, cost savings, and strategic changes specific to successful client relationships and practice areas. These are the innovations driving the combination of knowledge, technology, innovation and strategic pricing forward.

COST SAVINGS AND MODELING FOR THE FUTURE

At B&B, through Spherical Models, LLC, we look at how visual and predictive analytics can be leveraged toward the future of our alternative fee arrangements with our clients. We're integrating big data and predictive analytics throughout our practice areas to make our alternative fee arrangements targeted, based on past and present trends. As an example, let's take a look at the three vendors mentioned earlier: Tableau, Net Documents and Big Hand. How are they either integrating consumer technology capability, or adapting consumer technology elements to further a law firm in reaching targeted rates, pricing, profitability and future alternative fee arrangements? Integrating these three vendors into our strategy, over the next few years we're targeting a transition into pricing and profitability as a key element in our current and future client negotiations.

The speech recognition component of Big Hand is key in providing all 12 of our offices with the ability to increase the timing, accuracy and transparency of the

Analytic Solutions

day-to-day dictation, processes and workflow within attorney/project assistant models. This step alone has provided an astonishing level of cost savings to the firm, and is allowing us to realize efficiency, workflow and project staffing goals through internal and client related analytics.

The integration ability for Net Docs to integrate with consumer products like Microsoft SkyDrive, and within B&B's Gmail and Google Drive, allow us to keep our evolving consumer-driven technology workflow moving forward through our Google for Business Applications, while leveraging Net Doc's specialization in legal document management as a reliable evolution forward, blending the best of both worlds.

Our forward Tableau integration is the analytics glue tying all elements together. Whether through our financial systems, our social media driven intranet through Google+, Google Analytics and Big Query, or our Big Hand speech recognition and workflow systems, Tableau is able to tie all elements together in visual and predictive reporting.

The strategy behind our vendor integration is realizing present day benefits and costs savings; our strategy is also modeling for future alternative fee arrangements and leveraging the best pricing available for our clients through alternative staffing and project-based billing models. This ensures we have a core group of vendors understanding the evolving needs present within our consumer culture that also drive business, client and customer culture forward.

Big Data and the Snowden Effect

We understand that vendors integrating both within the legal industry and our clients' varying industries is important. But looking at the larger picture of social consumerism, big data and predictive analytics is also important in understanding aspects of what drives these vendors across industries. Taking advantage of the abundance of big data, organizations use analytical glue to bind relevant strategies across all regions. An example I like to illustrate is the *Snowden Effect*.

As Eric Snowden illustrated through his NSA revelations, copious amounts of data is being accumulated and shared today across countries, many of which claim they wish to keep their information internally within their borders. I've since called this the Snowden Effect, as it affects corporate, legal and consumer industries gathering information, analyzing information, and forming predictive analytics based on information shared across regions, borders, clients, customers and consumers. As Google, Microsoft Bing, Baidu and Facebook also reveal — every time we log into their consumer systems; search, click and buy whatever our day-to-day or businesses interests are — our search habits only become increasingly refined and targeted over time.

While understanding that the motivation in targeted advertising by these social and search giants make them more profitable, it's also important to understand how we can leverage the same analysis and consumer-like integration when applied with our clients. In understanding the realities of data collected about citizens across the globe by the NSA, we're given a shocking example of how big data analysis is not only here to stay, but becoming more accurate. In fact, the thought of big data, or too much data, is fast becoming an antiquated phrase. Most in the industry accept the exponential growth in data as more and more of human activity is created, interacted with and made discoverable online. Minimizing dark data (data not used, or unseen) is already the target of modern analytics and will only be refined as we look toward the future of analytics.

Having an exponentially growing level of data — whether through speech recognition, evolving workflow, client share or throughout our consumer workflow — is now a given as more of our personal and professional lives and goals are integrating online. Leveraging these methods to increase profitability, offering competitive pricing though data and workflow transparency, and looking ahead toward ever-increasing visual, collaborative and time-saving efficiencies, is a reality that both strategic inside and outside council are already exploiting.

And Forward

By taking a look into the future of analytics, we can only see this phenomenon growing more efficient and more targeted. Targeted analytics the consumer and professional world over are key to analyzing, predicting and realizing our steps forward. Whether we agree with the methods or not, it is important to realize as these methods mature, our clients will be leveraging these same analytics toward choosing outside counsel, budgeting rates and targeting billing models. Clients are already measuring our pricing, profitability, accuracy and transparency in offered alternative fee arrangements with predictive analytics tools like Sky Analytics.

By positioning our organizations as ready to continually evolve, we best position ourselves to remain competitive through the challenges ahead, both seen and unseen. While looking forward, it is important to keep in mind that the ability to bring immediate analysis and interpretation with more and more specificity through ever-increasing amounts of information and data doesn't necessarily correlate into our ability to predict our own futures in technology and analytics. This understanding is best quoted by Frank Herbert from his *Dune* series: "Deep in the universe is a pervasive need for a logical universe that makes sense. But the real universe is always one step beyond logic."

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Paper's Hidden Security Risk

By John Gilbert

It is almost impossible to open a newspaper today without reading about cybersecurity breaches. Target Corp., Neimann Marcus and many other companies have been targeted, and many experts think it is only a matter of time until law firms are targeted (if it's not too late already). All this "cyber risk" may have you pining for the days before computers, when almost all information was stored on paper.

In fact, based on the amount of paper law firms still keep — both onsite and off — it seems that lawyers literally want to go back in time. Part of the rationale is safety and security. Not only are lawyers often more comfortable in a paper environment, but there is a sense there is less to worry about, with no risk of cyber attacks. In fact, this is a false sense of security.

At the same time, law firms are facing higher expectations than ever on information security; in addition to legal and regulatory requirements including the HITECH (Health Information Technology for Economic and Clinical Health) Act (http://1.usa.gov/1gcqPqv), clients are expecting more protection of their information — and often auditing their firms overall security. Paper files can be stolen during office break-ins, lost unrecoverable during disasters, and easily left in airports or taxis. Worse, files that end up in the wrong hands are easy to read, with no password or other protections.

PAPER LOSSES

Stories of people accidentally leaving paper documents places are extremely common. It is very easy to leave a paper file in the seatback of a plane, in a commuter train station or in a taxi. Since paper files

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are not password protected, once left these papers are immediately exposed to whoever picks them up.

Furthermore, many organizations are not vigilant enough about how they destroy such records. For example, in 2011 some sensitive documents related its Chemical Ordnance, Biological, Radiological Awareness (COBRA) taskforce were found outside the team's Manhattan stationhouse in a garbage can. And for more than a decade until 2011, Dallas County, TX, used parolees and probationers for sorting and shredding sensitive records, including Social Security cards and medical records.

INAPPROPRIATE ACCESS

While most of the stories in the news focus on electronic hacking from overseas, many firms do not pay enough attention to their physical plant; it's just not as hard to gain access as one would think. Access cards, ID checks and locks are, of course, generally effective, but not 100%. It is not at all uncommon to slip on these procedures and allow access to areas that should be secured. There is also the real risk of allowing guests, visitors, workers, etc., to find documents left on counters, near copy machines and on desktops. And by their nature, paper documents are easy to snatch and remove without detection.

One additional risk that manifests in paper documents — but not electronic ones — is tampering. Anyone who gains access can remove or add pages, or combine files in a way that could be misleading.

NATURAL (AND UNNATURAL) CATASTROPHES

The list of catastrophes that have faced law firms over the past few years is staggering. The attacks on 9/11, Katrina, Sandy, earthquakes, countless fires and more. While off-site storage providers provide "highly protected" facilities, even these are not 100% foolproof. But a much greater risk is office paper. We've all seen images of paper literally filling up the streets in some of these instances. While the security risk here is akin to a needle in a haystack, the fact that these records could be lost forever is a giant consideration.

As an example, one smaller firm on the East Coast had been storing their documents in the basement (not uncommon for small firms) when Sandy hit. The basement was flooded forcing the firm to make a decision: destroy the documents or pay the high cost of drying the records out. Unable to quickly decide, the firm chose to instead freeze the documents until further evaluation could be done. The documents remain in a commercial freezer, resting snugly between steaks and lobster.

MISFILING AND MISPLACING

Paper documents must be manually labeled and stored. While many firms include search and track capabilities, those simply describe where the file should be — not necessarily where it actually is. The manual processes around paper create an increased likelihood of misplacing files, not to mention a delay in accessing them.

ACHIEVING BETTER SECURITY

One way to avoid the risk from paper is to scan whatever you can and store electronically. (Follow best practices in electronic data security in order to make sure electronic documents are safe.) While it may be impossible to scan the troves of paper that remain, either onsite or off, a great way to start is to scan every possible new piece of paper that comes into the firm, and destroy the original pages with good document destruction protocols. We call this a "less paper" strategy.

The key to such a policy is making it easier for all staff to scan every day. This can be done by simplifying the experience for all users and developing workflows and technologies that build on the way firms' professionals are working already. For example, leverage technology to make scanning simple and use the same interface on all devices so it's easy for staff to scan.

Furthermore, use technology to automatically route electronic documents to where they will ultimately reside — ideally a document management system. This allows the electronic documents to immediately become part of the

Paper's Risk

firms' document retention and disaster recovery programs.

Once a decision is made to destroy the paper version, it must be properly managed. Understand who is responsible for handling, transporting and destroying paper is critical to avoiding the nightmares associated with lost documents. And don't underestimate the value of the QA process from the time the document is scanned until the paper version is destroyed.

FOR THE PAPER THAT REMAINS

While law firms have been talking about the "paperless office" for many years, paper is here to stay. Not only do most firms not have the will to review and scan boxes and boxes of paper that they have accumulated over decades, but some documents must be maintained in original format for regulatory or other purposes.

For these remaining paper documents, firms must do a better job securing documents during the entire span of their lifecycle. Consider the following strategies that will assist in the difficult process of document safety and compliance.

Limit Access. The area where critical paper documents are stored must be secure. Access should be limited only to appropriate personnel, and access should be monitored at all times. Installing fingerprint or facial recognition technologies, PIN-pads and/or swipe card-readers likely make sense as well.

Invest in Paper-Saving Technology. Investing in fire prevention systems and non-water fire suppressant alternatives will minimize risk. Making sure that offices are above the water plane can make a big difference in mitigating the damage from smaller floods.

Off-Site Storage. Off-site storage companies are in the business of protecting paper documents and are typically very good about it. However, they charge fees each time boxes are retrieved, so this is typically only a good option for archived paper. Additionally, there is some risk during the transportation process. While archiving with an outside provider is likely safer than keeping the documents on site, for the most part it is an inferior solution to scanning the documents and storing electronically.

CONCLUSION

While cyber risk seems to be getting all the press, it is important to remember that keeping paper has many of the same risks — and even more. Especially due to the lack of password protection and encryption on paper documents, it probably makes sense to scan as many as possible and store electronically. And it is absolutely crucial to set up good protocols for documents that remain on paper.

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e-Discovery

organizations, it may also be important to generate global reports to see who is on hold within each business unit, in specific geographical locations, and whether any unique issues, such as international privacy requirements, are associated with a particular hold or custodian.

In e-discovery, visibility equates to transparency, which bolsters defensibility and promotes efficiency. Having increased visibility through configurable dashboards allows users to access all of the information needed in a single location without having to manually track down the information. It also provides a more efficient way for legal team members monitor the progress of a hold or track holds across multiple matters, all without picking up a phone.

Consideration 3:
Automation

Automation is one area where technology's power stands out. The goal here is to leverage the latest technology while keeping things as simple as possible for the user.

Matters typically change over time. As more custodians are added to a hold, the complexity and effort required to manually track the process increases exponentially. A single custodian may have five or six data sources, a multinational matter can present language barriers, or a certain percentage of custodians in just about any matter are going to be non-compliant. Automation prevents legal teams from becoming overwhelmed by all of these contingencies, saves time, and ensures consistency and repeatability.

Areas of the legal hold process that can be automated include:

- **Legal hold templates.** Users should be able to develop customized templates depending on case type or legal objective and then save the templates for reuse on similar matters. For example, a legal team may use different templates for IP cases or tort cases. There's no need to repeat the process of creating a hold from scratch for each new matter.
- **Custodian surveys and questionnaires.** Apart from the benefit of getting the required information from custodians in an efficient and standardized manner, questionnaires or surveys can help custodians better understand what a hold means and what it covers. They also help legal teams learn more about the matter and its potential scope. Having the responses to a questionnaire organized in electronic form can be more useful than relying on notes from a face-to-face interview, as the information can be automatically added to the custodian and hold.
- **Dynamic tags.** Tags are identifiers that attach to a legal hold, such as attorney name, paralegal name, brief description of a matter or the matter name. These can be entered once, and then the software will automatically attach those tags to all of the hold notices, as well as to any other communications, such as reminders and reissued holds that are sent out. This helps prevent errors when a paralegal or attorney goes into an unfamiliar

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Vendor Survey

the cost pressure of certain important elements in e-discovery. While corporate law departments still recognize great service, productive processes and innovative strategies, it is essential for outside providers to evaluate how their teams highlight those characteristics beyond the underlying costs.

Cultivating deeper relationships with corporate counsel, and demonstrating a broad understanding of their core business and noteworthy challenges, is often the difference between a judgment that reflects a lack of competitive pricing as opposed to one that simply characterizes what you offer as *expensive* (which is not necessarily a negative observation).

Year after year, my research shows that defensibility and efficiency, among other elements, trump cost in many engagements. If your team can highlight the other elements of the relationship and can exceed expectations set at the outset, it will remain both competitive and admired.

Key strategies that are proving successful include:
- Establishing a strategic plan.
- Setting realistic milestones.
- Conducting thorough interviews with both the client — to properly gauge the scope of the matter — and with your internal team to confirm its ability to adhere to a defined plan.

PERFORMANCE

"Performance was more than adequate." and "Work with them; they are fine. Nothing discerning about them." vs. "Really have smart good people; every time we have worked

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with them, we have been very happy as has outside counsel."

There is an interesting distinction here. The survey respondents were satisfied with the results, but only one expanded on the remark with an overwhelmingly positive viewpoint. Naturally, your goal is to achieve a relationship that results in the latter. It is a subtle difference, but the in-house legal community is fairly small and highly collegial so given the vast array of options available, it is essential for companies to foster a strong network of champions.

Some of the strategies that seem to prove successful relate to finding ways to stay connected on both a personal and professional level with client contacts. Also, periodically follow up to learn more about the organization's progress.

Key strategies that are proving successful include:
- Asking for feedback and then applying it to improve or enhance how your organization interacts with clients.
- Attributing improvement to the suggestions you received.

Acknowledgment is an incredibly powerful tool in strengthening relationships and in helping to influence how individuals describe your products or services.

REPUTATION

"Have heard they are not doing so well; used to be really good." vs. "Known for customer service; they're very good on quality customer satisfaction and relationships; multiple locations; good project management skills."

In both cases, the individuals commenting may not have worked directly with these vendors and may even be speaking about the same company. Regardless, they have opposing impressions of the company's past and present performance.

Try to determine the origin of this criticism. Engage your existing customers in informal conversations to identify the source of potentially unflattering observations. It is difficult for an organization to counter damaging remarks years after they surface. And, over time, they become reality to potential customers, irrespective of their veracity.

Key strategies that are proving successful include:
- Routinely conducting client and industry surveys, or incorporating client perspectives into white papers, industry overviews, and bylined articles to proliferate positive impressions.
- Offering periodic newsletters with substantive guidance and tips, or webinars and tele-seminars that provide details on best practices.

Often, simply notifying individuals of a webinar or the release of a white paper with a title that directly addresses your overall message can create a perception in itself without attendance at the webinar or review of the written work. Also, soliciting client concerns can help prevent results like this one: "[The vendor] was a finalist in the company's RFP process. It promised the moon, but follow-up customer interviews did not support that."

In addition, almost as crucial as cost competitiveness, performance metrics, and a solid reputation, is an organization's ability to combat commoditization confusion. While many vendors solve the same or similar problems, they often do so with distinction. It is that unique approach that teams must highlight in their public and private conversations to avoid assertions like: "Most of the e-discovery vendors are fungible."

Instead, provide comprehensive comparisons of different competitors and detail your team's customized approach, including strategic distinctions. That will typically result in remarks such as: "I know they can give me the answer to what I'm looking for."

Ultimately, companies should strive for statements like, "Excited about what they are bringing to market," or, "Price used to be a weakness, but they are getting much better given their new releases and changes in the market." Both reflect a successful effort to alert the legal community about upcoming initiatives, and the latter shows the effectiveness of a coordinated reinvention campaign.

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case for the first time to issue a hold. It also expedites the hold creation process by eliminating tedious, repetitive information entry.

- **Automated workflows.** Establishing automated workflows can ensure approvals are received at specified steps in the hold process before moving forward. They can also ensure copies of holds and interviews are automatically issued to designated recipients. For example, a specific workflow can ensure that an attorney approves a hold notice and associated interview before it's issued. Legal hold software excels at enforcing logic and can prevent users from closing a matter until all the required steps have been completed and documented according to predetermined criteria. For most organizations, that will mean all interviews have been completed by custodians and all litigations holds associated with the matter have been released.

- **Automated reminders and escalation notices.** The legal hold process goes well beyond a single issuance of a hold notification. It's important to keep in mind that custodians have day-to-day business responsibilities and will likely need to be reminded of their hold obligations from time to time. A legal hold software application should allow users to automate such notices on a predetermined schedule at the outset of the matter, so legal team members don't have to track and manage these communications manually. Beyond simple reminders, escalation notices that are sent directly to a custodian's supervisor can be useful in getting non-responsive custodians to take a requested action.

Consideration 4: Documentation

This may not seem so important at the onset of a matter, but it is almost always crucial at the end. It's just as important — perhaps even more important — to correctly *document* work as it is to *perform* the work. Thorough documentation is necessary to demonstrate the integrity of the entire legal hold process. A solid legal hold application can automatically itemize each discrete action, including dates, the individuals involved, and so on. If the legal team ever faces an allegation of spoliation (*i.e.,* violation of the duty to preserve relevant evidence) or other e-discovery failures, solid documentation will allow the organization to defend its processes with clarity and authority.

For very large organizations, in particular, automating the documentation of preservation efforts is crucial. A single legal matter can involve terabytes of data, months or years of activity, and large teams of IT and legal staff, the composition of which is likely to change frequently. This is too much to keep track of manually. Organizations need a centralized repository where people from all areas — legal, IT, management, outside counsel, vendors — can go to monitor matter the status, share information and retrieve documentation.

Courts require organizations to effectively defend corporate preservation processes. Legal hold software can automate and streamline those processes so the documentation happens automatically.

Consideration 5: Integration with Other Systems

The legal hold software application should be able to readily "talk" and share data with internal information systems, such as HR, data management, collaboration systems (*i.e.,* SharePoint) and authentication services (*i.e.,* Active Directory). For instance, interfacing the legal hold software with an organiza-

tion's HR system can help ensure employment changes, such as terminations, retirements, new assignments and leaves of absence, are updated at regular intervals, preferably daily, so legal can keep track and act on potential impacts on existing holds. Failing to stay on top of these changes can easily result in data spoliation. Integration can also make it possible to run "historical searches" to see where a custodian has been employed in the organization at various points in time.

Integration with authentication services, such as Active Directory, makes it possible for users to use their domain password to log in to the legal hold system. This allows legal hold software application to be configured so the user isn't prompted to provide log in credentials at all. The bottom line is that integration of multiple automated e-discovery processes helps eliminate redundancy, streamlines the preservation process and reduces the potential for missteps along the way.

CONCLUSION

Preservation in e-discovery is critical to maintaining defensibility. Failure is not something that can be corrected later. Organizations concerned with cost, efficiency and risk mitigation should not rely on manual processes to fulfill their preservation obligations. Legal hold software can address these challenges by automating and tracking every step from issuance to release. It can also provide the documentation and integration capabilities that are critical for supporting a consistent, repeatable, defensible preservation process that can withstand judicial scrutiny.

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