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Mini-coding may yield quick, cost-effective document control

BY SANDRA SERKES

According to a report issued by the Administrative Office of the U.S. Courts in October 1999, document discovery represents more than half the total cost of an average lawsuit, and can take up to 90 percent of the time attorneys spend on a case during the active discovery phase.



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As electronic communications continue to evolve and expand, so too will the number of “documents” that firms will need to manage during the discovery phase of litigation. New state and federal guidelines address the disclosure of electronic data, and businesses are finding themselves required to retain massive archives of the electronic files, databases, and e-mails that exist within an organization.

Management of large document populations is responsible for a significant portion of the retainers that companies pay to their law firms today. The ratio of time spent on management of documentary evidence versus actual case research, negotiation or trial preparation is becoming more and more imbalanced.

To address these problems, the U.S. Department of Justice has pioneered a system called “mini-coding” for use with all documents in discovery (both hard-copy and electronic), and a growing number of private law firms are following suit.

Mini-coding is the systematic cataloging of case documents using only a core set of highly descriptive fields — usually three: document type, document date and document title. This process is markedly faster than traditional bibliographic coding and allows attorneys to cull through documents quickly, giving them a concentrated overview of all the documentary evidence. Mini-coding allows law firms to decide which subset of the documents to code fully, if any, and in what priority order, rather than fully coding all documents.

Fully coding all documents (a portion of which may be irrelevant to the case) is obviously costly, so mini-coding makes economical sense because it allows firms to bypass full coding of extraneous documents that show up in the storm of

paperwork. Mini-coding all the case documents first, and then deciding which documents need to be fully coded allows firms to take greater control of their legal budgets and efficiently manage relevant case documents and attorney and paralegal time.

Mini-coding also reduces the risk of human error because there is less data entry and because attorneys have more time to review the document population. Documents, particularly those protected by attorney-client privilege, are more easily identified and are less apt to get lost in the shuffle, misfiled, or worse, delivered to the wrong person. These types of administrative errors can be devastating to a case.

Law firm clients expect their counsel to spend the majority of their time — and their clients’ retainers — on actual case preparation, not administration. In response, mini-coding is fast becoming the initial phase of document management for small and large firms alike, because it gives firms who take advantage of it a distinct time advantage from the beginning of the case over those who don’t. Firms that mini-code avoid the time wasted hand-sorting boxes or even truckloads of boxes of documents and stacks of disks containing thousands of megabytes of electronic data received during the discovery phase. Mini-coding allows the firm to get to work on the case much more quickly.

Mini-coding is available from many litigation support service companies, some of which also offer more sophisticated document coding, taking some of the burden off firms’ staff. Some of these services use vast teams of employees to hand-code while others have developed automated processes that can reduce the time it takes to code high-volume jobs to a matter of days.

Mini-coding is a simple idea with enormous benefit for litigation, and it’s no surprise that firms across the country are incorporating it into their case strategy.

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