

# Designing and Implementing a Document Review and Production Strategy

By contributing author **Bethany DeRuiter, Morrison & Foerster, LLP**

You've collected data from the client. You've selected your e-discovery service provider, and the data has been processed. You've mapped out production deadlines. The data is now ready to be reviewed by the attorney review team.

As the document manager for the case, the legal assistant or paralegal can facilitate an efficient and seamless review process by following these steps:

## 1. Design the Online Review Process

First, meet with the managing attorney to determine the most important issues, facts, and other criteria that the reviewers will need to track during the review process. Next, meet with your service provider and orient yourself to the functionality of the particular review tool. The paralegal case manager is uniquely positioned to bring together the factual elements of the case and the functionality of electronic discovery technology to most effectively leverage the firm's resources for a successful project.

## 2. Prepare an "Electronic Review Orientation" Binder

To give the reviewing attorneys an overview of the case, and to manage their expectations of document review, you should prepare and distribute a binder of summary case materials. This binder of reference materials will typically include the following:

- Chart of custodians ("cast of characters"). Be sure to include names, titles or positions, type of data collected (paper files, email, electronic files, interview notes), volume of data, and priority of custodian. *See sample in fig. 1.*

| Fig. 1 Chart of Custodians: |                 |                |                        |                                     |                |
|-----------------------------|-----------------|----------------|------------------------|-------------------------------------|----------------|
| Priority                    | Name            | Title/Position | Type of Data Collected |                                     | Volume of Data |
| High                        | John Richardson | VP Sales       | Email                  | <input checked="" type="checkbox"/> |                |
|                             |                 |                | Paper files            | <input checked="" type="checkbox"/> |                |
|                             |                 |                | Electronic files       | <input checked="" type="checkbox"/> |                |
|                             |                 |                | Interview notes        | <input checked="" type="checkbox"/> |                |
| Priority                    | Name            | Title/Position | Type of Data Collected |                                     | Volume of Data |
| High                        | Lisa Wood       | VP Operations  | Email                  | <input checked="" type="checkbox"/> |                |
|                             |                 |                | Paper files            | <input checked="" type="checkbox"/> |                |
|                             |                 |                | Electronic files       | <input checked="" type="checkbox"/> |                |
|                             |                 |                | Interview notes        | <input checked="" type="checkbox"/> |                |

- Electronic review checklist. Your checklist should include names of custodians, volume of data, attorney assigned/date file complete, second level review attorney assigned/date file complete, deadline for review, date produced, Bates ranges assigned. *See sample in fig. 2.*

| <b>Fig. 2 Electronic Review Checklist:</b>        |                         |
|---|-------------------------|
| <b>Custodian Name:</b>                            | <b>James Richardson</b> |
| Volume of Data                                    | 4 gigs                  |
| Attorney Assigned/Date File Complete              | Julie Burns   1/14/04   |
| Second Level Attorney Assigned/Date File Complete | Sam Thompson   3/17/04  |
| Deadline for Review                               | 4/15/04                 |
| Date Produced                                     | 4/17/04                 |
| Bates Ranges Assigned                             | DEF10082-DEF12044       |

- Summary memo of the case (prepared by attorney).
- Copies of document requests.
- Team “contact sheet” including your client’s and the firm’s IT contacts, key service provider contacts, and the usual list of counsel.
- Service provider’s user manual.
- Memo on “What is a Hot Doc?” (prepared by attorney).
- Document production log.
- Discovery “newsletters”—typically created by attorneys and legal assistants and emailed to the review team with answers to questions about sensitive issues and special documents.

### **3. Facilitate Attorney Online Review Tool Training**

Set up training sessions for your firm’s attorneys to be conducted by your service provider. Training should include logging in, opening documents, saving documents to folders, designating responsive documents for production, redacting, and logging out.

A preliminary training session should be conducted with the attorney managing discovery and the lead paralegal. This preliminary session will give you a head start on how the online review program works so you can assist with troubleshooting during the review. This will also give the service provider an opportunity to learn which features of the review tool will be most helpful to your particular case, in order to emphasize those features during the formal training session.

Next, set up a training session with the entire review team. This training session will enable the managing attorney to offer case-specific information that may relate to the particular features of the review software (e.g., a brief discussion on privileged issues may be interjected during the description of the redaction feature). During this session, you will also have an opportunity to offer tips to the reviewers on specific searches and other procedures to ensure consistency in the review process, describe the long- and short-term goals set by the managing attorneys for review and production, and review the priorities based on those goals. Finally, this session will provide the opportunity to distribute assignments of document groups to review based on the established priorities.

At this stage, it is essential to ensure that the attorneys and the service provider know that you are the point-of-contact for communicating and streamlining any changes in the review process for the entire project. After notifying your firm’s team of your role, you will be ready to receive and document any changes in the “Orientation Binder” or communicate those changes via email to the entire review team in a timely manner.

#### 4. Prepare a Document Production Checklist

When the attorney review team has completed its examination of the assigned section, folder, or group of documents, and you are ready to produce, prepare a step-by-step plan of your requirements for production:

- Run queries to collect the documents for production into one folder (e.g., all responsive documents since the last production, or all documents reviewed and marked responsive in a custodian's folder). *Note:* It is very important that your queries for collecting documents for production exclude any privileged documents. You may also want to build in some time for conforming the designations of privileged and redacted documents to other "copies" or versions of the same documents that appear in the larger collection or database. This ensures consistency in your production and designations. This is one of the greatest benefits to using an online review tool as it is almost impossible to do this sort of cross-referencing in a paper review.
- Apply Bates numbers to documents in the collection.
- Determine the production method (CD/DVD).
- Verify the inclusion of all fields agreed upon by opposing counsel in the data load file (e.g., images, Bates ranges, OCR, source field) and instruct the vendor to prepare disks for production to opposing counsel.

#### 5. Coordinate Loading of Data from Vendor to In-House Databases

Depending on the nature of the case and other pertinent factors, you may want to load the data into your in-house database before producing to the opposing counsel. If so, ask the vendor to deliver a data load file containing images and all of the metadata from the production set defined at the beginning of the case. The fields included in the data load will be mapped to the previously defined database fields. For maximum flexibility, you may want to ask the vendor to prepare two sets of data load files: one for your in-house database, containing all images and metadata, and another for production to counsel, containing images and only selected meta data fields.

With a clear plan for review, attorneys and legal assistants can work together with the service provider to efficiently navigate through immense volumes of data. The degree to which you pre-plan your document review and production strategy is directly proportionate to the degree of confidence you will enjoy as you move through the production process.

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*Bethany De Ruiter is a senior legal assistant at Morrison & Foerster, LLP in San Francisco. She has managed large cases for attorneys for more than 18 years.*