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How e-Discovery Applications are Changing the Face Of Litigation Support

By Danny Thankachan

Bringing e-discovery software in-house can significantly reduce costs and improve efficiency. However, there are many needs related to e-discovery that go beyond simply managing discovery documents. At Thompson & Knight (TK), our litigation support team has found ways to use our e-discovery software for tasks ranging from project management to data analysis. These supplementary software functions have created new roles for litigation support, while improving attorney workflows throughout the firm.

App Support

As Litigation Support Manager, I've been receiving more and more projects recently from diverse practice areas such as real estate, bankruptcy and transactional practices. The ability to build applications for case management, contract comparison, data analysis, or even chain of custody means we have the flexibility to fulfill disparate needs. Using our installation of kCura's Relativity, we built a series of applications in the software to solve critical challenges.

Importantly, building applications in Relativity doesn't require any programming knowledge. We have found that the litigation support team can fill the shoes of IT, building applications in as little as an hour rather than stealing resources away from IT for half-a-day to build the same types of tracking and management applications in SharePoint.

Traditionally, our tracking and project management mechanisms would have been housed in Excel as spreadsheets, which were not accessible via the Web and did not have features such as granular security and the ability to create automated rules and workflows. Collaboration meant passing around these spreadsheets, meaning that the client could never interact with the case in real time. Clients would have to call their attorney and obtain the report. Now, if an attorney at TK sends me a spreadsheet, I can put it into Relativity — adding the necessary fields (such as custodian or date) and features (such as uploading capabilities) — within an hour. I can then sit down with the attorney and tweak the application on the fly. They get immediate feedback, I complete the project in a couple of hours, and we're finished with it, without ever requiring IT to become involved. Clients and attorneys can then access case information in real time.

Collaboration is key. We started a new project — a $200 million appellate case involving 20 attorneys and three law firms — and were able to upload our appellate transcript into Relativity, allowing all of these attorneys to work on the appeals process together. If any of the attorneys needed to access the transcript and add notes, they could log into the system and review it.

We also realized that having applications integrated with an e-discovery solution meant we could incorporate universal search into our case management. It's advantageous to be able to search all of the discovery documents and transcripts in one index without leaving our case management tool.

The Capital Markets Group

A prime example of the way we used applications for project management is in our Capital Markets practice group. At one point, we had an attorney join us from another firm, and he brought along several hundred cases involving five clients — all mortgage companies that handled multimillion-dollar commercial loans. When mortgagees didn't pay, these companies would undergo foreclosure proceedings and other litigation to resolve outstanding loan balances. In cases like these, we're looking at several thousand documents ranging from receiverships and service agreements to research materials, all to track the progress of each different matter.

Before Relativity, these cases would come in to our capital markets attorney, Senior Partner Mark Weibel, for case intake. Then, the case might need to be handled by bankruptcy attorneys or other practice groups, depending on the matter. Weibel, however, needs to know what's happening in all of these groups — a daunting task considering the complexity of the matters and the numerous, widely dispersed practice areas involved. For perspective, at any given time, Weibel may be managing a range of matters that total well over $3 billion. Prior to building our own applications, he would have managed cases like these using custom applications in LotusNotes or our IT extranet. Either way, the task of building an effective project management dashboard would massively drain IT resources.

Instead, with Relativity installed, Weibel came to litigation support with the need to compile an easy-to-use project management system — a centralized list of all ongoing matters and a means by which he could assign projects, or sections of a project, to different practice groups. He also wanted a central location where he could track information such as filings, pleadings, forms and

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templates, and where attorneys working on these matters could submit status updates. Finally, he required a place where he could merge the relevant closing documents for our clients into a single repository. All of this information was becoming increasingly challenging to track.

Weibel sat down with me and we discussed his needs, roughly outlining the design for an application to fulfill the requirements of his workflow. As we talked, Weibel, an associate and I built the main framework in an hour-and-a-half. We considered the information Weibel wanted to track and then figured out how to structure that data in Relativity with custom objects and forms. As we generated ideas, I modeled the functionality for him on the spot.

Along the top of the application, we built a series of tabs with related information that Weibel can drill into for more data, including status updates. For example, we created a tab called "Local Counsel" that contains a list of counsel with their locations and contact information, all of which can be searched. We built this on the fly, determining which details would be important — such as name, location and phone number — and immediately creating fields for this information. There's also a library of templates for attorneys, a list of pleadings, and a list of orders that link to the matters to which they refer.

Since then, we've had two follow-up meetings to add new tabs or specific functionality. When Weibel needed a repository to upload closing binders, we simply built a field called Additional Documents. When you drill into a specific matter, that field has an upload option. Outside of those meetings, when Weibel wants something changed — such as adding a new user — he e-mails me and I'm able to make a quick adjustment.

In the final application, we were able to create a full commercial mortgage-backed securities database with a dashboard, using these customizable fields to indicate the matters in progress, the attorneys involved, client and trust information. When adding a matter to the database, Weibel can pull in property information, loan amounts and other information, as well as uploading service agreements, closing binders or other PDFs. This application now has 20-30 attorneys contributing to it at one time.

More Than Real Estate

We've completed at least 15 other applications for practice groups, including a recent contract review application for a case involving two airlines. There were a number of contracts with a long list of vendors, and we needed to compare these contracts. For instance, if airline A used food provider C and airline B used food provider D, we needed to determine which food provider had the better terms and conditions in their contract. In other words, we had to analyze hundreds of contracts and create a repository to capture all of that analysis.

We built an application to upload all of the contracts into Relativity, built fields to sort the contracts by anything from content to confidentiality, and created fields for the client and attorneys to add information, be it their own analysis or other points related to the contracts.

In another instance regarding a health insurance matter, we were able to manage 2,500 individual health plans within one application. We could upload documents for all of the individuals, sort by document or individual, and connect the dots. We were able to show which documents referred to particular patients, doctors, witnesses and user lists. Additionally, we tracked all of the health plans, treatments and amounts each individual paid — and at least $30 million in collections were tracked in a single application.

Beyond these examples, we have used Relativity to organize pleadings, correspondence, legal research, case plans, budgets and other extensive collections of case-specific information. Applications can also be built for evidence and media management, and tracking chain of custody by linking custodians. Nearly 80% of the matters we deal with have low e-discovery budgets, so building applications in-house to increase productivity is becoming a necessity. Attorneys are able to collaborate much more efficiently with clients, other attorneys and litigation support. We get the same functionality as we did with Excel, but without working through Citrix or finding other roundabout ways to collaborate on a single document.

The Emerging Roles of Litigation Support

The process currently evolving at TK — litigation support's new emerging roles during litigation — is a change that's occurring in many firms across the country. The ability to sit down with a team of attorneys and build an application for them while they watch is a valuable asset. It opens up opportunities that law firms may not have thought were possible in-house.

TK's practice groups are increasingly turning to litigation support to help build workflows, rather than simply to get work out the door. Litigation support teams are becoming more collaborative regarding the analysis that attorneys need to accomplish. The role of litigation support teams continues to transform as these applications become ubiquitous. And while litigation support can now field requests for applications directly, IT can focus on support and operations. It's a better use of time for those of us who are attorney-facing.