How to Use Litigation Technology to Prepare & Present Your Case at Trial
October 27, 2021
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HOW TO USE
LITIGATION TECHNOLOGY
TO PREPARE & PRESENT YOUR
CASE AT TRIAL

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HOW TO USE
LITIGATION TECHNOLOGY
TO PREPARE & PRESENT
YOUR CASE AT TRIAL

Agenda

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8:30 A.M.   Registration & Coffee

8:55 A.M.   Welcome & Course Objectives
                 Paul J. Unger

9:00 A.M.   Cybersecurity & Ethical Pitfalls for Litigators
                 In this segment, we discuss the ethical pitfalls of practicing law in the computer age. We
                 will discuss security vulnerabilities related to documents and emails, HIPAA, and e-
                 discovery. We will also discuss the potential Metadata Nightmare. Legal documents can be
                 full of metadata *(hidden data)* that can reveal information detrimental to your client or
                 detrimental to your relationship with your client. A few easy precautions and protocols can
                 keep you and your firm from disclosing hidden data which could lead to ethical violations
                 and malpractice claims. Understand how it works and how you can advise your clients to
                 protect themselves. We also discuss how to properly delete client data, assign
                 passwords, and dispose of computer equipment while protecting client privacy.

10:00 A.M.   Break

10:15 A.M.   A Picture Is Worth a Thousand Words – Making Your Case to the Jury with
                 Legal Technology
                 You will see high-tech courtroom presentations developed for the courtroom. We will
                 show you how legal technology can be used to create a digital exhibit notebook and
                 retrieve documents, images, animation, and deposition testimony *(even video)* for
                 opening statement, witness examination, impeachment, and closing argument.

11:15 A.M.   Using PowerPoint Effectively in Litigation
                 Developing Electronic Presentations for the Courtroom. This session will provide a
                 step-by-step approach on how to effectively present demonstrative evidence and the
                 rules you need to follow when producing your exhibits for presentation to the court.
                 From Opening Statement to Closing Argument learn the Dos and Don'ts of
                 an electronic trial presentation.

12:15 P.M.   Lunch Break (on your own)

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Agenda Continued

1:15 P.M.   E-Discovery & Trial Document Management
   E-Discovery and managing attorney work product can be intimidating and daunting, but it
   does not have to be. In this session we will discuss acquiring & preserving data, processing
   electronic files, managing work product, managing discovery production, and preparing it
   for trial.

2:15 P.M.   Break

2:30 P.M.   A Litigator's Guide to Using PDFs at Trial
   Regardless of the PDF program you use, in this session we will show you the appropriate uses
   of PDFs in litigation. We'll cover extremely important topics such as redaction, metadata
   removal and electronic document security, Bates numbering, splitting/combining PDFs,
   reducing file-size for electronic case filing, review/comment and PDF collaboration,
   adding signatures & stamps, routing PDFs for comments/feedback, and more.

3:30 P.M.   Tips, Tricks & Tactics for Litigators
   We will close out the day with all the tips that we were not able to cover in the main
   presentation. In this session, we will cover practice tips and trial tactics designed specifically
   for litigators. In addition to more practical tips on improving your trial preparation and trial
   presentations, we will also explore trial transcript management, legal research, and
   improving client communication.

4:30 P.M.   Adjournment

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Paul J. Unger is a nationally recognized speaker, author and thought-leader in the legal technology industry. He is an attorney and founding principal of Affinity Consulting Group, a nationwide consulting company providing legal technology consulting, continuing legal education, and training.

He is the author of dozens legal technology manuals and publications, including recent published books, *Tame the Digital Chaos – A Lawyer's Guide to Distraction, Time, Task & Email Management* (2017) and *PowerPoint in an Hour for Lawyers* (2014). He served as Chair of the ABA Legal Technology Resource Center (2012-13, 2013-14)(www.lawtechnology.org/), Chair of ABA TECHSHOW (2011)(www.techshow.com), and served as Planning Chair for the 2016 ACLEA Mid-Year Conference in Savannah, GA. He is a member of the American Bar Association, Columbus Bar Association, Ohio State Bar Association, Ohio Association for Justice, and New York State Bar Association, and specializes in document and case management, paperless office strategies, trial presentation and litigation technology, and legal-specific software training and professional development for law firms and legal departments throughout the United States, Canada and Australia. Mr. Unger has provided trial presentation consultation for over 400 cases. In his spare time, he likes to run and restore historic homes.

Cybersecurity and Ethical Pitfalls of Everyday Law Office Computing

Presented for Indiana Law Update 2021

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Affinity Consulting Group
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Protection of client information, confidences and secrets is one of the most sacred traits defining the relationship between attorneys and their clients. Without a proper understanding of technology, you may be compromising that relationship. Email, cloud computing, traditional computers, smartphones, tablets, networks, viruses, worms, spyware, metadata, electronic court filings, just to name a few, may already be compromising that relationship without you even knowing it.

Take email as an example. In 2020, the average legal professional will receive between 125-150 messages daily. Without question, email is one of the most important technological communication advancements of the past 100 years. It has fundamentally changed the way we communicate with clients and the way that we do business. Major corporations and law firms are run via email communication instead of face-to-face communication. For lawyers, emails present a wide array of issues that most of the business world and ordinary consumers will never face.

Under ABA Model Rule 1.6, Attorneys have a broad obligation to act competently and reasonably protect client information and confidences. Rule 1.6 (replacing DR 4-101) revised the scope of confidential information. Similarly, in Canada, Model Code of Professional Conduct, Rule 3.3 requires the same protection of client information and confidences. Practicing law without technology (and email) has almost become an impossibility. However, law and technology have become so intertwined that you can find yourself in many ethical dilemmas pretty quick. This seminar and article seek to address these issues that may lead to an ethical violation or malpractice.

"Competence" Re-Defined and
Taking Reasonable Steps to Protect Client Information

National Trend – Examples

Pennsylvania (approved October 22, 2013)

Rule 1.1 – Comment 8: Maintaining Competence
[8] To maintain the requisite knowledge and skill, a lawyer must keep abreast of changes in the law and its practice, <u>including the benefits and risks associated with relevant technology</u>, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

Pennsylvania was the first state to adopt the new language. 38 states have adopted the Duty of Technical Competence. Some of those include:

Alaska (effective October 15, 2017)
Arkansas (effective June 26, 2014)
Arizona (effective January 1, 2015)
Colorado (approved April 6, 2016)
Florida (effective January 1, 2017)
Indiana (effective January 1, 2018)
Illinois (effective January 1, 2016)
Kansas (effective March 1, 2014)
Kentucky (effective January 1, 2018)
Louisiana (adopted April 11, 2018)
Michigan (effective January 1, 2020)
Minnesota (approved February 24, 2015)
Missouri (approved Sept. 26, 2017)
New Hampshire (effective January 1, 2016)
New York (adopted March 28, 2015)
North Carolina (approved July 25, 2014)
Ohio (effective April 1, 2015)
Oklahoma (adopted September 19, 2016)
Pennsylvania (effective October 22, 2013)
South Carolina (approved November 27, 2019)
Virginia (effective March 1, 2016)
Washington (effective Sept.1, 2016)
West Virginia (effective January 1, 2015)
Wisconsin (effective January 1, 2017)

Some states have not yet adopted the new language within their rules of professional responsibility. As of February of 2021, those include:

Oregon
Nevada
Mississippi
Alabama
Georgia
Maine
Maryland
New Jersey

Some states have not adopted the rule change but have addressed it in an ethics opinion. For example, **California** has not formally adopted the change to its rules. However, they expressly acknowledge the duty of technical competence in Formal Opinion No. 2015-193, and even cites ABA's Comment 8.

As another example, **Oregon** in Formal Opinion 2011-187 imposes a duty of technical competence *when dealing with metadata* and cites Arizona Ethics Op No. 07-03. It is reasonable to conclude that all Oregonian attorneys should have general technical competence (not just technical competence with metadata) in light of this opinion on metadata and the national trend.

Acting Competently to Preserve Confidentiality

Indiana Rule 1.6, Comments 16 & 17

[16] A lawyer must act competently to safeguard information relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3.

[17] When transmitting a communication that includes information relating to the representation of a client, <u>the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients</u>. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. <u>Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement</u>. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule.

Ohio Rule 1.6 (and Model Rule 1.6) and Comments 18 & 19

Rule 1.6(c) – Confidentiality of Information: A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Rule 1.6 – Comment 18 & 19: Acting Competently to Preserve Confidentiality

[18] Paragraph (c) requires <u>a lawyer to act competently to safeguard information</u> relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. <u>Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards</u>, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule.

[19] When transmitting a communication that includes information relating to the representation of a client, <u>the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients.</u> This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. <u>A client may require the lawyer to implement special security measures not required by this Rule</u> or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these Rules.

Similarly, many other states have taken the same approach in their comments, as the ABA and Ohio. Take Maine, New Hampshire and Oklahoma as an example:

Maine Rule 1.6
Acting Competently to Preserve Confidentiality – Comments 16 & 17

Acting Competently to Preserve Confidentiality

[16] A lawyer must act competently to safeguard information relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3. Consistent with Section 66 of the Restatement, a lawyer who takes action or decides not to take action allowed under this Rule is not, solely by reason of such action or inaction, subject to professional discipline, liable for damages to the lawyer's client or any third persons, or barred from recovery against a client or third persons. The legal effect of the lawyer's choice, however, is beyond the scope of the Model Rules of Professional Conduct.

[17] When transmitting a communication that includes confidences or secrets of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule.

New Hampshire Rule 1.6
Acting Competently to Preserve Confidentiality - Comments 18 & 19

[18] Paragraph (c) <u>requires a lawyer to act competently to safeguard information</u> relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. <u>Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients</u> (e.g., by making a device or important piece of software excessively difficult to use). <u>A client may require the lawyer to implement special security measures</u> not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see Rule 5.3, Comments [3]-[4].

[19] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these rules.

Oklahoma Rule 1.6
Acting Reasonably to Preserve Confidentiality – Comments 16 & 17

[16] Paragraph (c) requires <u>a lawyer to act reasonably to safeguard information</u> relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1, and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. <u>Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients </u>(e.g., by making a device or important piece of software excessively difficult to use). <u>A client may require the lawyer to implement special security measures not required by this Rule</u> or may give informed consent to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern date privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see Rule 5.3, Comments [3] -[4].

[17] <u>When transmitting a communication</u> that includes information relating to the representation of a client, <u>the lawyer must take reasonable precautions</u> to prevent the information from coming into the hands of unintended recipients. <u>This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions.</u> Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these Rules.

Louisiana Rule 1.6 – Comments 18 and 19

[18] Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see Rule 5.3, Comments [3]-[4].

[19] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these Rules.

Mississippi Rule 1.6 + Comments

Mississippi requires reasonableness and competency, but they don't provide as much guidance in their comments as other states:

Acting Competently to Preserve Confidentiality. A lawyer must act competently to safeguard information relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See rules 1.1, 5.1 and 5.3.

When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this rule.

Cloud Computing

Cloud computing is an umbrella term that covers several concepts. Within the scope of legal technology, it most often refers to Software-As-A-Service ("SaaS"). There are a ridiculous number of definitions of SaaS, but I think this one sums it up succinctly without using 15 more acronyms requiring definitions:

> "Generally speaking, it's software that's developed and hosted by the SaaS vendor and which the end user customer accesses over the Internet. Unlike traditional packaged applications that users install on their computers or servers, the SaaS vendor owns the software and runs it on computers in its data center. The customer does not own the software but effectively rents it, usually for a monthly fee. SaaS is sometimes also known as hosted software or by its more marketing-friendly cousin, 'on-demand.'"

To be clear, this means that you do not have the software installed on your computer - it is accessible only via a browser on the Internet. Further, your data and/or documents are located on the vendor's servers and not on your computer or server.

This obviously raises ethical concerns because you are entrusting client confidential information with someone other than you and your employees.

An excellent compilation of ethics decisions around the country can be found at the ABA Law Practice Management Section's Legal Technology Resource Center (LTRC).

http://www.americanbar.org/groups/departments_offices/legal_technology_resources.html

Probably the best decision that I have read to date in the U.S. comes from Pennsylvania:

http://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/charts_fyis/saas.html

Pennsylvania, and nearly every jurisdiction who has addressed the issue employ a standard of reasonableness and typically requires segregation of data, privacy/security of data, ability to keep a local download, and reliability of the vendor. The court stated:

The standard of reasonable care for "cloud computing" may include:

- Backing up data to allow the firm to restore data that has been lost, corrupted, or accidentally deleted;

- Installing a firewall to limit access to the firm's network;

- Limiting information that is provided to others to what is required, needed, or requested;

- Avoiding inadvertent disclosure of information;

- Verifying the identity of individuals to whom the attorney provides confidential information;

- Refusing to disclose confidential information to unauthorized individuals (including family members and friends) without client permission;

- Protecting electronic records containing confidential data, including backups, by encrypting the confidential data;

- Implementing electronic audit trail procedures to monitor who is accessing the data;

- Creating plans to address security breaches, including the identification of persons to be notified about any known or suspected security breach involving confidential data;

- Ensuring the provider:

  - explicitly agrees that it has no ownership or security interest in the data;

  - has an enforceable obligation to preserve security;

  - will notify the lawyer if requested to produce data to a third party, and provide the lawyer with the ability to respond to the request before the provider produces the requested information;

  - has technology built to withstand a reasonably foreseeable attempt to infiltrate data, including penetration testing;

  - includes in its "Terms of Service" or "Service Level Agreement" an agreement about how confidential client information will be handled;

  - provides the firm with right to audit the provider's security procedures and to obtain copies of any security audits performed;

- will host the firm's data only within a specified geographic area. If by agreement, the data are hosted outside of the United States, the law firm must determine that the hosting jurisdiction has privacy laws, data security laws, and protections against unlawful search and seizure that are as rigorous as those of the United States and Pennsylvania;

- provides a method of retrieving data if the lawyer terminates use of the SaaS product, the SaaS vendor goes out of business, or the service otherwise has a break in continuity; and,

- provides the ability for the law firm to get data "off" of the vendor's or third-party data hosting company's servers for the firm's own use or in-house backup offline

- Investigating the provider's:

  - security measures, policies and recovery methods;

  - system for backing up data;

  - security of data centers and whether the storage is in multiple centers;

  - safeguards against disasters, including different server locations;

  - history, including how long the provider has been in business;

  - funding and stability;

  - policies for data retrieval upon termination of the relationship and any related charges; and,

  - process to comply with data that is subject to a litigation hold.

- Determining whether:

  - data is in non-proprietary format;

  - the Service Level Agreement clearly states that the attorney owns the data;

  - there is a 3rd party audit of security; and,

  - there is an uptime guarantee and whether failure results in service credits.

- Employees of the firm who use the SaaS must receive training on and are required to abide by all end-user security measures, including, but not limited to, the creation of strong passwords and the regular replacement of passwords.

- Protecting the ability to represent the client reliably by ensuring that a copy of digital data is stored onsite.

- Having an alternate way to connect to the internet, since cloud service is accessed through the internet.

In Oregon, while the model rule language in Comments 18 & 19 has not been explicitly adopted, in Formal Opinion No. 2011-188 (revised 2015) they have adopted "the rule to act reasonably" as it applies to an attorneys obligation under Rule 1.6 to protect client confidential information. Opinion 2011-188 specifically concludes that an attorney may contract with a third-party vendor to store and retrieve files online via the Internet (i.e., cloud computing).

In Canada, only the Law Society of British Columbia has directly addressed cloud computing, and the Legal Education Society of Alberta has adopted the same standard. It seems to be a higher standard than the U.S., and many practicing in other areas of Canada that haven't addressed it have felt comfortable following the U.S. rules. The Law Society of BC developed an extensive checklist that is submitted as a separate paper hereto. The checklist encourages potential cloud service users to consider, among other things:

- use of a private cloud, which is designed to offer the same features and benefits of public cloud systems without some of the typical cloud computing concerns such as data control, security, and regulatory compliance;
- encryption of data using a 3rd party encryption product and the compatibility of the 3rd party product with the cloud provider's product and services;
- data security and responsibility for specific aspects of security, including firewall, encryption, password protection and physical security;
- regulatory requirements, including statutory privacy requirements, retention periods indicated in the LSBC Rules, the ability to produce documents with respect to a LSBC investigation in the form and time prescribed, and the retention of custody over client data;
- adequacy of remedies in the event of data breaches, data loss, indemnification obligations, and service availability failures;
- the cloud provider's breach notification obligations;
- termination of the services agreement with the cloud provider, specifically as it relates to issues including cost, service level failures (bandwidth, reliability, etc.), data availability after termination, and transition services;

- technical considerations, including compatibility with existing systems, uptime, redundancies, bandwidth requirements, security measures, and technical support service availability; and
- the track record of the cloud services provider (such as uptime, security, support service level, etc).

The above is neither an exhaustive list of applicable considerations nor a complete summary of the Checklist.

Advantages of Cloud Computing (Saas):

- Up Front Price Advantage: Let's say you want to start using a case management application for your practice. If you were to buy one such as Time Matters, you would have to pay for the software outright along with the annual maintenance contract which is mandatory ($905 for the first license and $525 for each license thereafter). You may have to buy a file server or otherwise upgrade your hardware in order to run the program. For an example cost, a new server plus installation and setup could easily run $5,000 - $8,000. Therefore, buying software may turn out to be quite expensive. In the alternative, you would begin subscribing to something like www.rocketmatter.com in which case you would pay $59.99 for the first user per month and $49.99 per user for the next 5 users per month. You wouldn't have to buy a server and you probably wouldn't have to upgrade any of your existing equipment assuming you already have high speed Internet access.

- Ease of Use

- World-Class Data Security

- New Hardware often <u>NOT</u> Required: If you already have a computer and high speed Internet access, then you probably don't need anything else from a hardware perspective.

- Works in Apple or Windows: Since these applications are browser based, they will usually work with both Apple and Windows computers.

- Updates Included: Most cloud application include all updates which are installed for you.

- Technical Support Included: With most cloud applications, you get "free" technical support included with your monthly subscription fee. Of course, purchased software also provides technical support but it is often an extra fee on top of the original software purchase price.

- Access From Anywhere: As long as you're using a computer with internet access, you can probably use your cloud applications. You wouldn't need a VPN, GotoMyPc, or any other type of additional remote access application to accomplish this.

- Share Applications Among Users Spread Out Geographically: For lawyers with multiple offices or who wish to work from multiple locations, cloud applications provide a lot of flexibility. Of course, there are other ways to gain access to programs besides subscribing to cloud applications, but this feature is obviously built in to cloud apps without buying anything else.

- Redundancy Provided: Since your data is stored on the host company's servers, they almost always provide redundant data storage along with that so that there is little (if any) risk that you would lose your data or access to your application due to a physical hardware failure.

❶ **To Encrypt or Not to Encrypt?**

According to most jurisdictions in the United States, a lawyer does not violate the duty to preserve confidences and secrets if an email is sent without encryption technology.

In Canada, the rules do not explicitly say that encryption is not required. Instead, the rules imply a duty to act reasonably to protect client confidences. Lawyers should consider the use of information technologies to communicate with the client in a timely and effective manner appropriate to the abilities and expectations of the client. Lawyers may use email (see Rule 3.1-1(d) and 3.1-2 of the Rules of Professional Conduct).

Lawyers must display the same care and concern for confidential matters regardless of the information technology being used. When communicating confidential information to or about a client, lawyers should employ reasonably appropriate means to minimize the risk of disclosure or interception of data by malicious intruders.

What are the risks that a particular information technology poses for inadvertent disclosure or interception? Lawyers should inform a client of the risks of unauthorized disclosure and interception before using information technologies. Lawyers need to ensure that their clients, too, understand that they need to protect the confidentiality of communications to them. Seeking client consent before using a particular technology for communications may be appropriate.

In Ohio, Ethics Opinion 99-2, issued April 9, 1999, by contrast states that a lawyer does not violate the duty to preserve confidences and secrets if an email is sent without encryption technology citing DR 4-101 of the Ohio Code of Professional Responsibility. An attorney must use his or her professional judgment in choosing the appropriate method of each attorney-client communication. Most jurisdictions in the U.S. are consistent with Ohio.[1] Also see Formal Opinion No. 99-413 of the American Bar

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[1] Excerpt from Ohio Op. 99-2:

The trend among advisory bodies in other states (and the District of Columbia) is that electronic mail without **encryption** is ethically proper under most circumstances.

In the District of Columbia, "[i]n most circumstances, transmission of confidential information by unencrypted electronic mail does not per se violate the confidentiality rules of the legal profession. However, individual circumstances may require greater means of security." District of Columbia Bar, Op. 281 (1998).

In Illinois, "[l]awyers may use electronic mail services, including the Internet, without **encryption** to communicate with clients unless unusual circumstances require enhanced security measures." Illinois State Bar Ass'n, Op. 96-10 (1997).

In New York, the state bar association advised that "lawyers may in ordinary circumstances utilize unencrypted Internet **e-mail** to transmit confidential information without breaching their duties of confidentiality under Canon 4 to their clients, as the technology is in use today. Despite this general conclusion, lawyers must always act reasonably in choosing to use **e-mail** for confidential communications, as with any other means of communication. Thus, in circumstances in which a lawyer is on notice for a specific reason that a particular **e-mail** transmission is at heightened risk of interception, or where the confidential information at issue is of such an extraordinarily sensitive nature that it is reasonable to use only a means of communication that is completely under the lawyer's control, the lawyer must select a more secure means of communication than unencrypted Internet **e-mail**." New York State Bar Ass'n, Op. 709 (1998). The city bar association advised that "[a] law firm need not **encrypt** all **e-mail** communications containing confidential client information, but should advise its clients and prospective clients communicating with the firm by **e-mail** that security of communications over the Internet is not as secure as other forms of communication." Ass'n of the Bar of the City of New York, Formal Op. 1998-2 (1998).

In North Dakota, "Rule 1.6 of the North Dakota Rules of Professional Conduct is not violated by a lawyer who communicates routine matters with clients, and/or other lawyers jointly representing clients, via unencrypted electronic mail (**e-mail**) transmitted over commercial services (such as America Online or MCI Mail) or the Internet unless unusual circumstances require enhanced security measures." State Bar Ass'n of North Dakota, Op. 97-09 (1997).

In Vermont, "[a] lawyer does not violate DR 4-101 by communicating with a client by **e-mail**, including the Internet, without **encryption**." Vermont Bar Ass'n, Op. 97-5.

One state is reticent in its advice regarding unencrypted electronic communication with clients. In Arizona, the state bar responded "Maybe" to the question "Should lawyers communicate with existing clients, via **e-mail**, about confidential matters?" They advised "it is not unethical to communicate with a client via **e-mail** even if the **e-mail** is not **encrypted**" but suggested "it is preferable to protect the attorney/client communications to the extent it is practical." The committee suggested using a password known only to the lawyer or client, using **encryption** software, or at a minimum using a cautionary statement such as "confidential" and "Attorney/Client Privileged" either in the "re" line or beginning the communication. An additional suggestion was to caution clients about transmitting highly sensitive information via **e-mail** if the **e-mail** is not **encrypted** or otherwise secure from unwanted interception. Attorneys were "reminded that **e- mail** records may be discoverable." State Bar of Arizona, Op. 97-04 (1997).

Several states have reconsidered their initial views on the issue. In South Carolina, the bar association first advised that "unless certainty can be obtained regarding the confidentiality of communications via electronic media, that representation of a client, or communication with a client, via electronic media, may violate Rule 1.6, absent an express waiver by the client." South Carolina Bar, Op. 94-27 (1995). Later, the bar advised that "[t]here [now] exists a reasonable expectation of privacy when sending confidential information through electronic mail (whether direct link, commercial service, or Internet). Use of electronic mail will not affect the confidentiality of client communications under South Carolina Rule of Professional Conduct 1.6." South Carolina Bar, Op. 97-08 (1997).

In Iowa, the bar association rescinded Formal Op. 95-30 and replaced it with Formal Op. 96-1 advising that "with sensitive material to be transmitted on **E-mail** counsel must have written acknowledgment by client of the risk of violation of DR 4-101 which acknowledgment includes consent for the communication thereof on the Internet or non-secure Intranet or other forms of proprietary networks, or it must be **encrypted** or protected by password/firewall or other generally accepted equivalent security system." Iowa State Bar Ass'n, Op. 96-1 (1996). See also Iowa State Bar Ass'n Op. 96-33 (1997). Later, the bar

Association Standing Committee on Ethics and Professional Responsibility, *Protecting the Confidentiality of Unencrypted Email*, dated March 10, 1999.

The opinion contains an important caveat that should not be ignored:

> The conclusions reached in this opinion do not diminish a lawyer's obligation to consider with her client the sensitivity of the communication, the costs of its disclosure, and the relative security of the contemplated media of communication. Particularly strong protection measures are warranted to guard against the disclosure of highly sensitive matters. Those measures might include the avoidance of e-mail, just as they would warrant the avoidance of the telephone, fax and mail.

Is there a problem with this decision that is was issued so long ago? What effect do the newer Model Rules have on this opinion? Despite advances in technology, and the rules in most jurisdictions, the opinion would stand up today.

First, the same opinion is shared in well over a majority of jurisdictions, many of which had the New Model Rules already in place. Comment 17 to Rule 1.6 states:

> [17] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. **Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement.** A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this rule.

The ABA accepted the same approach in Comment 16 to Model Rule 1.6.

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association amended Opinions 96-1 and 96-33 by advising that "with sensitive material to be transmitted on **e-mail** counsel must have written acknowledgment by client of the risk of violation of DR 4-101 which acknowledgement includes consent for communication thereof on the Internet or non- secure Intranet or other forms of proprietary networks to be protected as agreed between counsel and client." Iowa Bar Ass'n, Op. 97-1 (1997).

Second, email is a very efficient form of communication. Third, the same security issues exist in other forms of communication such as wiretapping phone lines or stealing U.S. mail. Fourth, any interception of email or older forms of communication such as US mail or telephone calls is illegal. Finally, there is support in case law for the proposition that a reasonable expectation of privacy may exist even though a form of communication is capable of being intercepted, citing *State v. Bidnost*, 71 Ohio St. 3d 449, 461 (1994).

Ohio accepted the same approach in Comment 19 to its rule 1.6:

[19] When transmitting a communication that includes information relating to the representation of a client, **the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients**. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. **A client may require the lawyer to implement special security measures not required by this Rule** or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these Rules.

Duty to Do More? … Some Say Yes

Pennsylvania and New Jersey have adopted the same rule, but added a little more stringency to it. In Pennsylvania, Informal Opinion 97-130, issued September 26, 1997, concluded:

1. A lawyer may use e-mail to communicate with or about a client without encryption;
2. A lawyer should advise a client concerning the risks associated with the use of e-mail and obtain the client's consent either orally or in writing;
3. A lawyer should not use unencrypted e-mail to communicate information concerning the representation, the interception of which would be damaging to the client, absent the client's consent after consultation;
4. A lawyer may, but is not required to, place a notice on client e-mail warning that it is a privileged and confidential communication; and,
5. If the e-mail is about the lawyer or the lawyer's services and is intended to solicit new clients, it is lawyer advertising similar to targeted, direct mail and is subject to the same restrictions under the Rules of Professional Conduct.

While other jurisdictions are not bound by rules 1 through 5, above, I recommend them as best practices to follow.

The New Jersey Advisory Committee on Professional Ethics, in Opinion 701, issued in April 2006, states in a footnote that <u>confidential documents</u> sent over the Internet should be password protected.

In conclusion, in light of evolving technology and rules, it is my recommendation that attorneys (1) should advise clients verbally and in their engagement letter about email, as described in the Pennsylvania opinion, and (2) should have encryption available for use in appropriate circumstances.

❷ Email Encryption Solutions

Office 365 w/hosted Exchange and E3 licensing
www.office.com

Protected Trust
www.protectedtrust.com

Mail It Safe
www.mailitsafe.com

AppRiver
http://www.appriver.com/services/email-encryption/

Send
www.sendinc.com

TrendMicro
http://www.trendmicro.com/us/enterprise/network-web-messaging-security/email-encryption/index.html

❸ Retracting Sent E-Mails

Are there times when you wish that you could UNSEND something? This is actually something that <u>can</u> be done to <u>prevent</u> a known ethical violation where it may not be possible with ordinary U.S. Mail. With U.S. Mail, once the mail is in the post box, good luck getting it back!

I have 2 suggestions in this regard:

- If your firm uses Exchange Server, be sure to tell your system administrator to set a 5 minute delay before the email is actually sent from your server. This may give a user in your office enough time to catch it before it goes out.

- You may want to try out something like www.mailitsafe.com, or similar functioning service, which is an email verification program, but also allows retraction so long as it hasn't been retrieved by the recipient. You can also encrypt emails and attachments, requiring recipients to use passwords to open. The cost is $150 per year.

❹ **E-Mail Addressing: AutoComplete can be an AutoDisaster**

Outlook and other popular email programs have an "Auto-Complete" function that saves you the time of having to type out someone's complete email address if the name already exists in the program's address book. Once you type the first character in the TO field, Outlook starts guessing the name of the recipient and will display potential names. If to quick and careless, you could accidentally hit ENTER and auto-complete the wrong recipient. While a nifty feature if used correctly, this can get you into trouble if you are careless.

As an example, if you intend to send something to your client "Brian Cluxton", you could accidentally send something to opposing counsel "Brian Clayton" by typing B-R-I and hitting ENTER too quickly. If you don't catch it, you could send something really damaging to the wrong person. I don't think this warrants disabling the feature … just be careful!

You just hit the SEND button. You start to sweat and suddenly experience a panic attack. You and your associate were revising a contract for a client. Before sending it on to your client, you forgot to accept or reject tracked changes and remove all the hidden text from the word processing document. You also forgot to remove any other "metadata" before sending it. Anyone who receives the file can easily find out the following information:

- All the people who authored any part of the document … including the original author who happens to be a managing partner at a competing law firm

- The hidden text that states the client "is a moron!"

- The suggested changes made by a 1st year associate in your office (half of which were a bit moronic)

- The total time you spent revising the document … 15 minutes (even though you billed the client 8 hours – which is a big ethical problem of its own!)

This story is not fictional. It actually happened. This is just one of many bad messes that you can get yourself into if you are not using technology correctly.

The Bad News … Say goodbye to the glory days when you could simply draft and send a word processing document to opposing counsel or your client.

The Good News … Most technology-created pitfalls are easily avoidable if reasonable steps are taken.

## Metadata … Is it really a "Nightmare"?

What is Metadata? Literally, metadata means "data about data." In the personal & business computing world, it is the hidden or invisible information contained within computer files. Most notably in the legal technology field, lawyers worry about metadata found in Microsoft Word, PowerPoint, Excel, Corel WordPerfect and Adobe Acrobat files.

The kind of information that can be found under the surface a Word document, for example, might be:

- Last 10 authors
- Firm name
- File locations

- Tracked changes
- Hidden text
- Deleted document comments
- Routing slip information
- Document versions
- Revision time
- Document properties (file size, modification date, etc.)
- Fast saves
- Hyperlinks
- Linked objects

As an example, below is part of a report showing metadata using a widely-used metadata remover called "Metadata Assistant" created Payne Consulting Group.
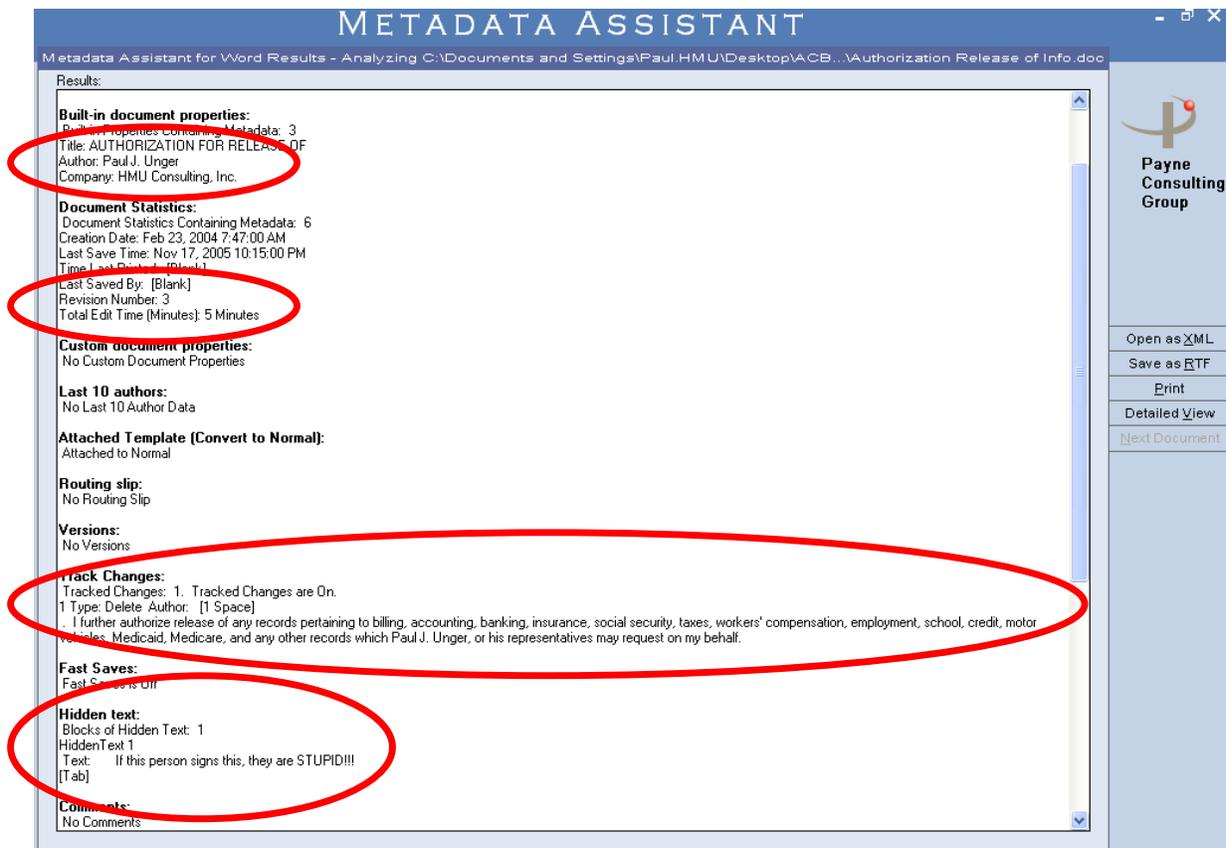
Why have metadata if it is so bad? Well, quite frankly because it is really useful information and it was never intended to be bad. Microsoft designed its programs to store metadata for a variety of reasons, one of which was for document management before Document Management Systems (DMS) existed.

As a very simple example, if one wanted to find all documents created or modified between December 1, 2005 and December 31, 2005 as a way to verify that you created

timesheets for all your billable time in December, you would perform a search using a Microsoft Find Files or Folders utility or a third-party program like dtSearch that searches … yes … metadata.

If you exchange electronic word processing files with anyone outside your office and do nothing to remove metadata it can result in a nightmare <u>if the file contains metadata that was intended to be confidential</u>. So, yes, it can indeed be a nightmare as many legal technologists claim. However, if you are not careless, these problems are not a nightmare at all. You just need to know what to do. Below is a list of what you need to do to avoid the word processing so-called "metadata nightmare."

❶   **Learn the Security Settings within Microsoft Word**

Much of the "dangerous" metadata contained in Microsoft Word documents can be prevented from transmission if certain security features are turned on.

In Word 2003 and earlier, open Word and select **Tools** and then **Options** and select the **Security** tab:

- Check "Remove personal information from file properties on save"

- Check "Warn before printing, saving or sending a file that contains tracked changes or comments"

- Check "Make hidden markup visible when opening or saving"
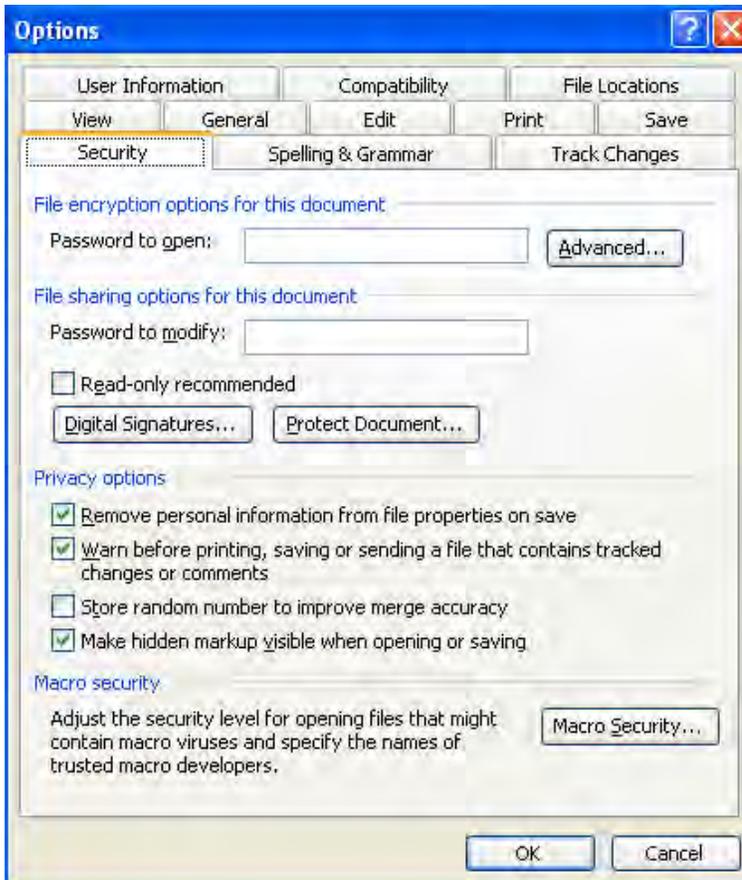
In Word 2010 and later, you must run the document inspector, which is most easiest found at **File > Info > Check for Issues > Document Inspector.**
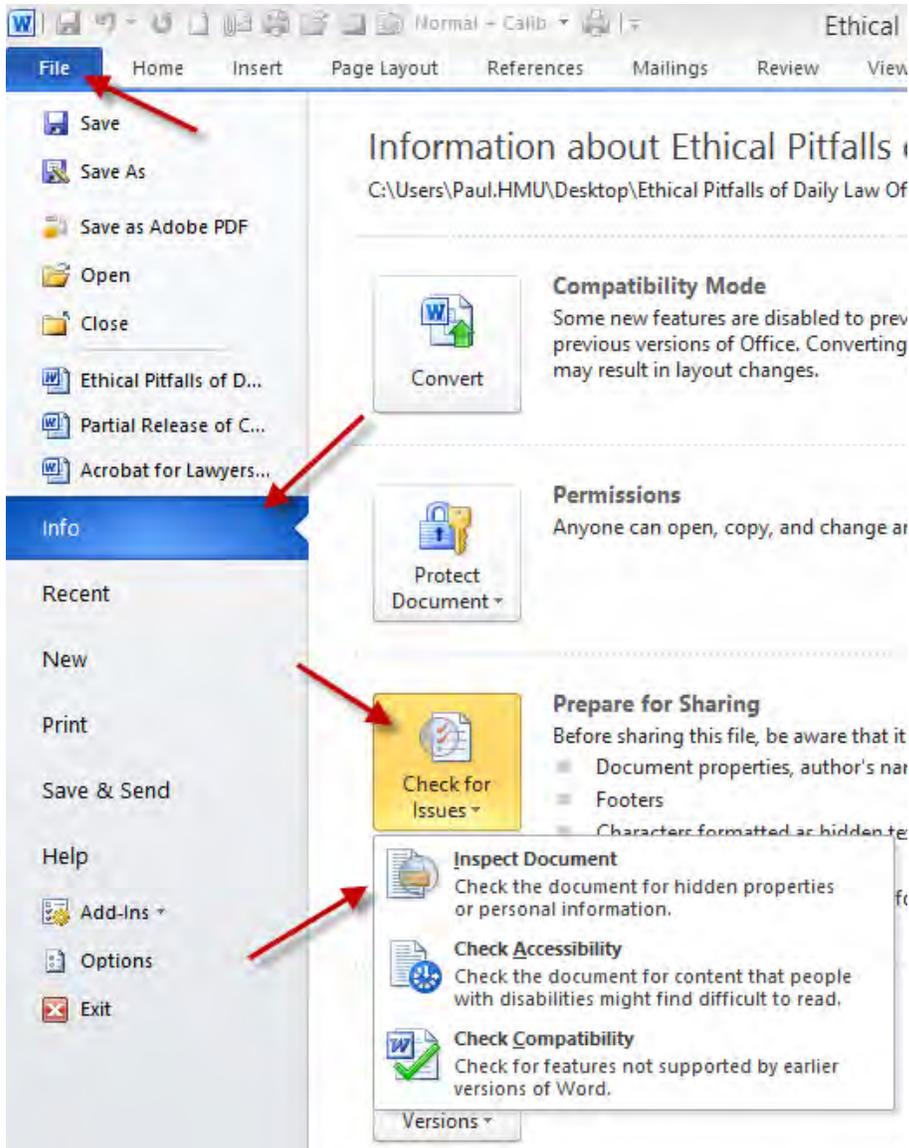
You may want to have Word warn you if there are tracked changes comments on save, print or send commands. It is found under **File** and then **Options**, **Trust Center, Trust Center Settings**, and then **Privacy Settings**.
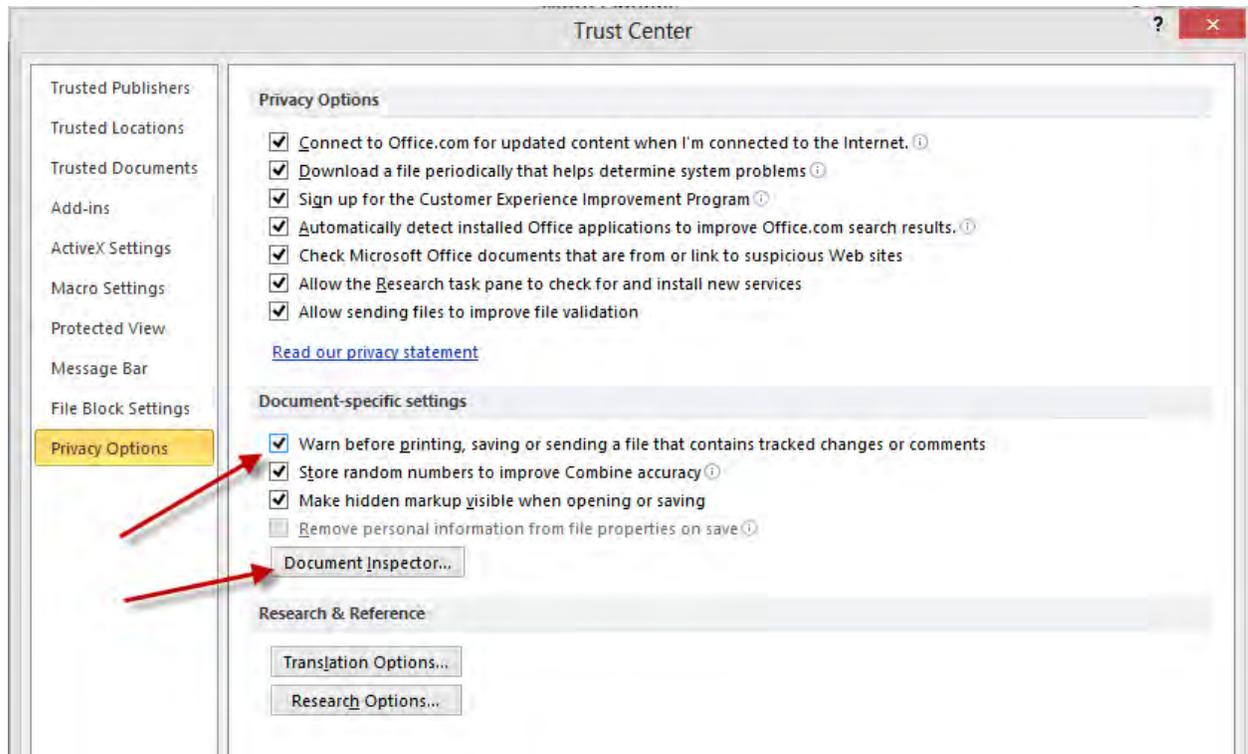
You can also download and install a free add-in from Microsoft - Office 2003/XP Add-in: Remove Hidden Data. CAUTION: This will not remove <u>all</u> metadata. Metadata still exists. The question is whether it is benign or damaging metadata.

❷   **Learn About Tracked Changes in Word**

"Track Changes" is a fantastic feature available in Microsoft Word that allows multiple reviewers of a document to literally track changes or compare documents electronically to see what edits have been made to a document. My first suggestion is to start using it if you have the need for that type of feature. My second suggestion is to learn how to use it correctly so those internally tracked changes do not end up in the hands of opposing counsel or even your own client. Here is an example of a paragraph that has tracked changed turned on.

"Track Changes" is a fantastic feature available in Microsoft Word that allows multiple reviewers of a document to literally track changes or compare documents electronically to see what edits have been made to a document. My first suggestion is to start using it if you have the need for that type of feature. My second suggestion is to learn how to use it correctly so those internally tracked changes do not end up in the hands of opposing counsel or even your own client so you don't look like a freaking idiot. Here is an example of a paragraph that has tracked changed turned on.

Added Text & Deleted Text

💣 The first big mistake that people make is not accepting or rejecting all changes before sending the document on to opposing counsel for their review. It is imperative that you go through the entire document and accept or reject all the changes made in the document. Changes that were made between versions that are not **accepted** or **rejected** will show up in a metadata analysis. This may expose your thought process or a weakness that you knew about, but the other side didn't think of … at least until now!

💣 The second critical thing that you do is make sure that you can see the tracked changes (the marked up or redlined version). Be sure that you select **Final Showing Markup** in the reviewing toolbar. Otherwise, you may not even realize that there are tracked changes in the document. Also remember in the security settings (discussed above) there is an option that will warn you before printing, saving or sending a document that has tracked changes.

❸ **Consider a Third-Party Meta Data Removal Tool**

Another option which I generally favor is investing in a metadata removal tool. These are programs that strip the metadata out of electronic documents before you send it to another party. You can either run the cleaner manually on a document OR intercept, evaluate and clean all attached documents when you are emailing it to the outside world. This makes the process much easier and requires no working knowledge of how tracked changes work or security settings within the program. As an example, Donna Payne's Metadata Assistant intercepts attachments with this dialog box when you hit the **Send** key from Outlook's email:
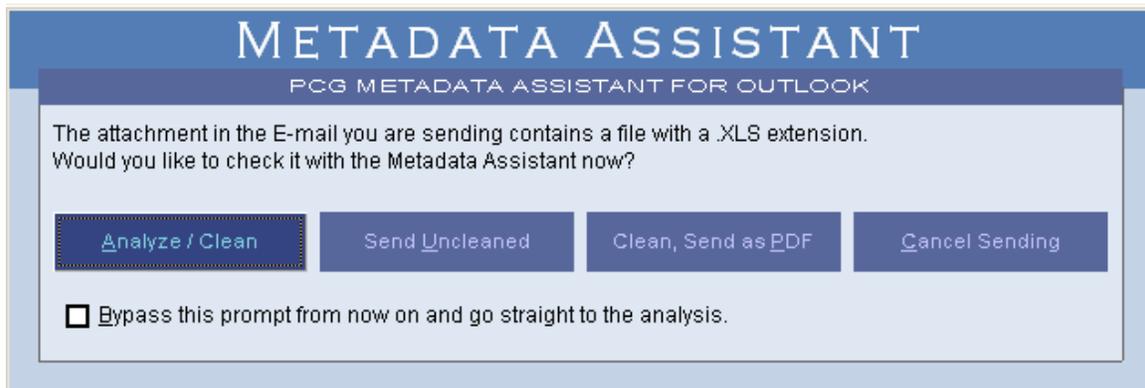
I suggest a metadata remover for those people who actually exchange electronic documents containing potentially harmful metadata. Many attorneys don't do this. If you do not exchange documents, don't spend the money.

Metadata removal tools to consider:

- Metadata Assistant (Payne Consulting Group – www.payneconsulting.com). Cost is $79 per license.

- CleanDocs (www.cleandocs.com)

- Workshare Protect (www.workshare.com). Cost is $29.95 per year.

- iScrub by Esquire Innovations (www.esqinc.com).

- Out-of-Sight by SoftWise (www.softwise.net). Cost is $30 per user.

- ezClean by KKL Software (www.kklsoftware.com). You must buy at least 20 licenses at $20 per license.

❹ **Exchange PDF Documents**

Although PDF documents do contain some metadata, they do not contain as much. Tracked changes <u>can indeed</u> be passed on from a Word document to PDF, but you would have to do it one of two ways. First, the person converting the document would have to attach the Word file into the PDF in its native format (Acrobat allows you to attach files into a PDF document). While possible, I know of no one who uses that function. So…just don't do it that way. A second way is if you have the tracked changes visible when you convert to PDF. That would create a PDF with the tracked changes <u>blatantly</u> showing. <u>You would have to be blind or extremely careless</u> not to see the tracked changes in the Word document and the resulting PDF. Also, if you have your printing configuration in Word set to print 'tracked changes' along with the document. In this instance, again, you would have to be blind and 100% careless by failing to review the newly created PDF before sending it.

Another benefit sending a PDF is that PDF documents are less editable, especially if you have security turned on. This has less to do with metadata, but it is a nice benefit if you send a PDF to a client, for instance, and tell them to print and sign the attached. If the document is editable, the client could change the text using Adobe Acrobat and then sign it (and not tell you). If the PDF document is secure, the signing party would have to go to greater lengths to make a deceptive change that is not noticeable.

❺ **WordPerfect also contains Meta Data**

Contrary to popular belief, WordPerfect also contains metadata. Examples of metadata stored in WordPerfect documents include:

- Authors
- Tracked changes
- Comments and hidden text
- Document revision annotations
- Undo/Redo history
- User names, initials and company
- Document summary information
- Header/Footer information
- Hyperlinks

See Minimizing Metadata in WordPerfect 12 Documents, Corel Corporation, copyright 2004.

Like Microsoft, Corel also made available a metadata removal tool which is available on their website. Also check WordPerfect Universe (www.wpuniverse) which offers a metadata removal tool for WordPerfect.

Keeping Information Safe from
Disaster, Accidental Loss, Theft, Viruses and Malicious Intruders

ABA Model Rule 1.6 also imposes a duty upon attorneys to keep their technology in safe and working order to protect client information. Similarly, in Canada, Section 3.3 of the Rules of Professional Conduct requires competence and confidentiality.

As an example, section 5.7 of the Law Society of Upper Canada's Technology Practice Management Guidelines states:

5.7 Confidentiality

Lawyers using electronic means of communications shall ensure that they comply with the legal requirements of confidentiality or privilege. (Section 3.3 of the Rules of Professional Conduct).

When using electronic means to communicate in confidence with clients or to transmit confidential messages regarding a client, a lawyer should

- develop and maintain an awareness of how to minimize the risks of disclosure, discovery or interception of such communications
- discuss the inherent security risks associated with each technology with the client and confirm in writing that the client wishes to communicate using that method
- use firewalls and security software to protect at-risk electronic information
- use and advise clients to use encryption software to assist in maintaining confidentiality and privilege
- take appropriate measures to secure confidential information when using cloud-based services
- develop and maintain law office management practices that offer reasonable protection against inadvertent discovery or disclosure of electronically transmitted confidential messages.

ABA Model Rule 1.6(a) states:

> (a) A lawyer shall not reveal information relating to the representation of a client, including information protected by the attorney-client privilege under applicable law, unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by division (b) or required by division (c) of this rule.

Comment 16 further states:

Acting Competently to Preserve Confidentiality [16] A lawyer must act competently to safeguard information relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1, and 5.3.

The State Bar of Arizona issued an opinion in response to an inquiry about the steps a law firm must take to safeguard data from hackers and viruses. They stated:

> ER's 1.6 and 1.1 require that an attorney act competently to safeguard client information and confidences. It is not unethical to store such electronic information on computer systems whether or not those same systems are used to connect to the internet. However, to comply with these ethical rules as they relate to the client's electronic files or communications, **an attorney or law firm is obligated to take competent and reasonable steps to as-sure that the client's confidences are not disclosed to third parties through theft or inadvertence.** In addition, an attorney or law firm is obligated to take reasonable and competent steps to assure that the client's electronic information **is not lost or destroyed.** In order to do that, an attorney must either have the competence to evaluate the nature of the potential threat to the client's electronic files and to evaluate and deploy appropriate computer hardware and software to accomplish that end, or if the attorney lacks or cannot reasonably obtain that competence, to retain an expert consultant who does have such competence. (Emphasis added.)

State Bar of Arizona, Opinion No 05-04, July, 2005.

The ABA Standing Committee on Ethics and Professional Responsibility has stated something similarly. In Opinion 95-398, they concluded "[a] lawyer who gives a computer maintenance company access to information in client files must make reasonable efforts to ensure that the company has in place, or will establish, reasonable procedures to protect the confidentiality of the client information."

In 2006, Nevada spoke to a similar issue relating to offsite storage of data and reached a consistent conclusion. They stated that a lawyer may store confidential information electronically with a third party to the same extent and subject to the same standards as storing confidential paper in a third party warehouse. In doing so, the lawyer must act" competently and reasonably to ensure the confidentiality of the information. Opinion 33 (February 9, 2006), Nevada Standing Commission on Ethics and Professional Responsibility.

David Reis, a partner with Thorp, Reed & Armstrong, LLP in Pittsburgh, PA, and a colleague legal technologist suggests the following basic steps:

1. Keep your operating systems patched.

2. Install and use anti-virus and spyware protection on all computers (and keep them all current with updates).

3. Use Care with Email attachments and Embedded Links.

4. Make backups of important files and folders.

5. Use strong passwords or other authentication (combine numbers and characters).

6. Use care when downloading and installing programs.

7. Install and use a hardware firewall.

8. Install and use a file encryption program.

Additionally, I recommend:

1. Apply the above principles to laptops and PCs that are used at home for business purposes.

2. Have a secondary backup system (consider an online backup service like Iron Mountain, MozyPro or Carbonite).

3. Encrypt laptops and external hard drives or flash drives where you store or transfer client information.

4. Use Adobe Acrobat Pro (or similar competing products like Kofax PowerPDF Advanced, pdfDocs, etc.) to redact important client information (social security numbers, billing information, etc.) contained in documents that you may have to file with the court electronically.

Disposing of Old Computer Equipment

You just got all new workstations for your staff. What do you do with the old workstations? What about all the confidential information contained on the hard drives? If you think that you deleted the information, think again! You may be violating Model Rule 1.6, HIPAA and opening yourself up to liability.

According to a study performed at the Massachusetts Institute of Technology (MIT), two graduate students scavenged through the data inadvertently left on 158 used disk drives. They found more than 5,000 credit card numbers, detailed personal and corporate financial records, numerous medical records, gigabytes of personal email and pornography. The disk drives were purchased for less than $1,000 from eBay and other sources of used computer hardware. Only 12 were properly sanitized (http://web.mit.edu/newsoffice/2003/diskdrives.html) .

❶ Avoiding the Ethical Pitfall – What is Required?

An attorney must act reasonably to preserve confidences and secrets of his/her client. The rules in the U.S. and Canada impose the same duty. ABA Rule 1.6 (and old rule DR 4-101) imposes a duty to preserve confidences and secrets. In all likelihood, disposing of employee workstations was not contemplated when DR 4-101 was adopted by the Supreme Court of Ohio on October 5, 1970 and likewise in other jurisdiction following suit; nevertheless, the rule applies. The New Rule as written, establishes a broad duty to preserve confidences and secrets that applies to all methods of communication. The duty clearly extends to disposing of client information and communication.

What does this mean in practical terms? Reasonableness, in my opinion, requires one of the following:

  (A) Retain the hard drive(s) of the computer(s) for safe keeping; or
  (B) Hire a company to erase and reformat the hard drives[2]; or
  (C) Hire a company that uses a special data erasing program; or
  (D) Purchase and utilize a special data erasing program. Using data erasing/rewriting programs to mask data stored on the hard drive is much more effective than just deleting it. This is a time-consuming process. Most of these programs claim they delete data to Department of Defense (DOD) level data

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[2] Erasing and reformatting hard drives will not completely protect the data. A skilled computer technician or forensic expert can likely recover some (not all) data from that hard drive using specialized software. This process is time-consuming and expensive.

destruction specifications (DOD sanitizing standard 5220.22-M). These programs delete the data and then rewrites data to the hard drive using a series of meaningless information in binary code patterns of "ones" and "zeros." These programs perform this function multiple times. Using very expensive technology, someone really talented could read something on a disk several rewrites deep, but it is unlikely and extremely costly.

❷ **Use a Service like PCDisposal (www.pcdisposal.com)**

PCDispoal is probably the largest computer disposal service in the country. It handles more than 10,000 computers per week thrown out by the U.S. Government. They will pick up your units (or have them shipped), properly delete data, provide a certified report detailing the services performed and confirming software removal (listed by hardware serial number)(Services are HIPAA compliant), and if possible, refurbish computers and may resell to companies looking for a bargain, sharing profits with you. They offer free shipping if it is over 10 units.

Contact Information:
Telephone: Toll Free 1-877-244-0250
FAX: (509) 562-4323
Postal address: 900 E. Loula, Olathe, Kansas 66062
E-mail: isales@pcdisposal.com

Also check out:

www.retire-IT.com (nationwide service)

http://www.ohiodropoff.com (Ohio Computer and Recycling Center)

IMPORTANT: Most computer recycling companies will not delete data or reformat hard drives. Make sure that you specifically request this, or it will <u>not</u> be done.

❸ **Do-It-Yourself**

You could do the DOD-level data destruction yourself with programs like the ones listed below, OR simply take out your screwdriver and physically remove the hard drive and throw it in a locked file cabinet. Programs that you can buy to erase data yourself are:

- cyberCide Data Destruction (www.cyberscrub.com) offers a product for $29.00.

- Active@ Kill Disk - Hard Drive Eraser (www.killdisk.com/eraser.htm) offers a free version and a professional version for about $30.

- OnTrack DataEraser™ (www.ontrack.com) offers a personal version for $29.

IMPORTANT NOTE: If trying to **sanitize data on a solid state drive (SSD)** (most hard drives after 2013), I recommend that you use Parted Magic (www.partedmagic.com), or rely on an expert to do it for you and provide written certification. The above tools will not work on SSDs.

❹ **Don't Forget SmartPhones, Tablets, and <u>Copy Machines</u>!!**

Be sure to follow manufacturer's instructions on wiping all data from smartphones and tablets.

Copy machines are the most often forgotten about devices that contain an enormous amount of potentially confidential client information. Copy machines just don't copy anymore. They first take a snapshot image of the document, stores it on a hard drive, and then prints a copy per your instructions. Depending on the size of the hard drive and the volume you scan, your machine can hold days, weeks, months, and potentially years of "copied" documents.

CBS did an excellent story on copy machines that is quite alarming:
http://www.youtube.com/watch?v=iC38D5am7go

Password Management and Two-Factor Authentication

In short, passwords need to be (1) unique; (2) strong; and (3) stored safely. With as many passwords that we maintain, personally and professionally, there are some very inexpensive, but fantastic solutions that can provide you with relief.

❶ Two-Factor Authentication is Critical

Putting in place two-factor (or multi-factor) authentication (also known as 2FA) is more important today than changing passwords or using unique passwords. I still think unique passwords is important, but changing passwords every 30 days has recently been regarded as a waste of time. 2FA is more important because without the second method of authentication (usually a text message notification requiring your intervention, like entering a code, providing a PIN, proving your fingerprint from your smartphone) a cybercriminal will not be able to login to an important account even if they have your password. See this regarding Microsoft finally acknowledging this year that 2FA is critical and changing passwords is not very important anymore: https://www.cnet.com/news/microsoft-admits-expiring-password-rules-are-useless/.

❷ Make Passwords Strong and Unique

Passwords should not be re-used. If your credentials are compromised, they could be sold on the dark web. If you used the same password at another site (i.e. Dropbox, a client portal, your bank, etc.) your information (potential confidential information or documents) is now compromised. Moreover, most cybersecurity experts now advise people to use long phrases that combine letters, numbers and characters. I generally aim for at least 12 characters.

❸ Safely Store your Passwords

If you don't have a password manager, I recommend saving your passwords in an encrypted Word or Excel file (see above how to encrypt Word & Excel files).

❹ Password Management Programs

I strongly recommend investing in a password manager. In fact, I believe in this technology so much, that our company now provides a password manager to every employee in our organization. The good news is that the above 3 objectives can be

achieved with some very inexpensive solutions. Here are some of the common features:

- Automatic password generators for unique passwords that never repeat
- Automatic password generators that create insanely strong & cryptic passwords
- Cloud encrypted storage of passwords
- Access to passwords from all mobile and desktop devices
- Integration with all major browsers
- Works on a Mac or PC
- Apps for iPhone, Android-based phones, iPads, Android tablets
- Safe storage of financial and estate information
- Ability to share with loved ones or individuals at work

Highly Rated Password Managers

1. **Dashlane** (www.Dashlane.com)
2. **LastPass** (www.LastPass.com)
3. **1Password** (www.1password.com)
4. **Roboform** (www.roboform.com)
5. **Keeper** (www.keepersecurity.com)

Avoiding Death by PowerPoint -
Courtroom Presentation Technology
PowerPoint Storyboarding, Client Presentations & Courtroom Tech

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Introduction

Attorneys under-utilize visual communication, and over-utilize verbal communication as compared to the general population.[1] In one study, 387 attorneys and 1657 non-attorneys were surveyed over 3 years to determine how they fit into one of three learning/ communication styles: visual (seeing), auditory (speaking and hearing) or kinesthetic (feeling). 61% of the general population prefers to learn from visual information, while only 46.9% of attorneys prefer to communicate with visual information.

Whether our audience is a group of attorneys, clients or jurors, it is clear that more attorneys than not prefer to <u>not</u> use visual information when presenting. This is a problem that must change. Whenever appropriate, we need to get attorneys and other presenters to supplement their presentations with visual information. MS PowerPoint (as well as Keynote and/or Prezi) are excellent tools to present that visual information. Unfortunately, most people grossly misuse PowerPoint and treat it as if it is the only tool in the presentation toolbox.

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[1] Animators at Law 2007 Study. Interestingly, according to this study, only 18% of non-attorneys learn best by hearing information, as compared to nearly 29% of attorneys.

Presentation Technology Options

There are many tools available that complement PowerPoint, and for good reason. PowerPoint cannot manage and display large numbers of images, documents and video with the flexibility many times needed in the courtroom. PowerPoint is very linear in nature, and was never designed to store, manage, retrieve and display a large number of images, document and video. It wasn't designed to organize and display all the exhibits in a civil or criminal trial. It was designed to replace film-based slide shows with an enhanced computer graphics-based slide show.

If you need to store, manage, retrieve and display lots of images, documents and video, you need to invest in a trial presentation database program. On the other hand, if you are presenting a rehearsed linear slideshow such as in your opening statement or closing argument, PowerPoint is a great option. In fact, many times, you use both. It totally depends on what you are trying to do, your style, and your comfort level.

What exactly is a trial presentation database program? Imagine having the ability to display to a jury any document, illustration, photograph or video deposition clip within seconds. Also imagine having volumes of documents on your computer or tablet, organized to help you prepare for trial … a digital exhibit notebook. This is what trial presentation software is all about.

Trial presentation software options (these are just some of the market leaders that I believe merit consideration):

- Trial Director (www.indatacorp.com)
- Sanction (www.sanction.com)
- OnCue (www.oncue.com)
- TrialPad for iPad (www.trialpad.com)
- ExhibitView for iPad (www.exhibitview.net)
- TrialSmart for Apple (www.claritylegalllc.com/products/trialsmart)

While I am still convinced that Sanction, Trial Director, or Oncue is needed for larger cases, there are plenty of trials and hearings that could be handled with TrialPad on an iPad. Many of the core features available in Sanction and Trial Director are available in TrialPad. TrialPad does have limitations … at least for know. It cannot handle the management of video clips very well. Storage capacity may also be an issue in extremely large cases. With that said, TriadPad can still do a quite a bit and is very impressive. It has become a very mature product. Perhaps one of the coolest things it can do is transmit the video signal wirelessly through AppleTV and an HMDI connection.

You can also pull up documents, callout areas and annotate (highlight and freehand):
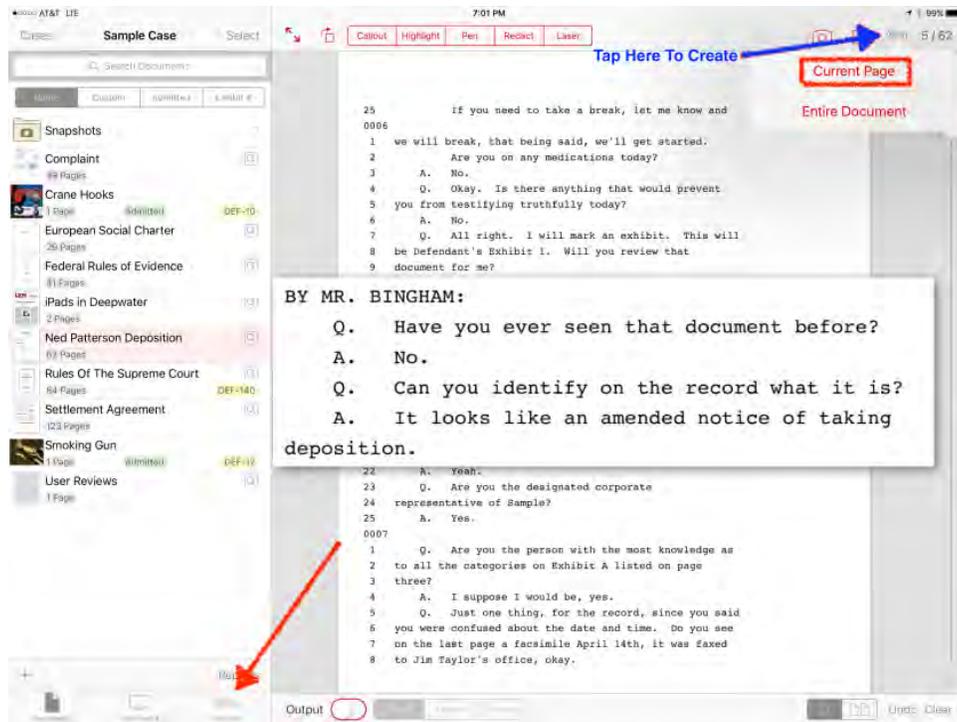
You can also pull up photographs and play video clips. The cost is roughly $149.00 for the app, which is like a million dollars in the app world, but still pretty cheap in comparison to other software.

In summary, trial presentation software, generally, is particularly good for:

•   Organizing discovery
•   Displaying documents
•   Playing back video
•   Video clipping for impeachment
•   Displaying photographs
•   Adding annotations to images
•   Creating and showing timelines
•   Displaying bullet-point lists

<u>Example - Instant Retrieval of Documents</u>: In a trial presentation database, by typing the Exhibit # or Bates Number, one can instantly display that document on a large screen. For instance, type "P002-001" and the image of Plaintiff's Exhibit 2, page 1 will appear. Select an area to magnify key sections of the document at a moment's notice in the courtroom. If you wanted to create a call-out (zoom) in a document in PowerPoint and highlight text, it would take 2 separate programs and about 5-10 minutes (if you know what you are doing). Using a trial presentation program, you can do it in 2 seconds.
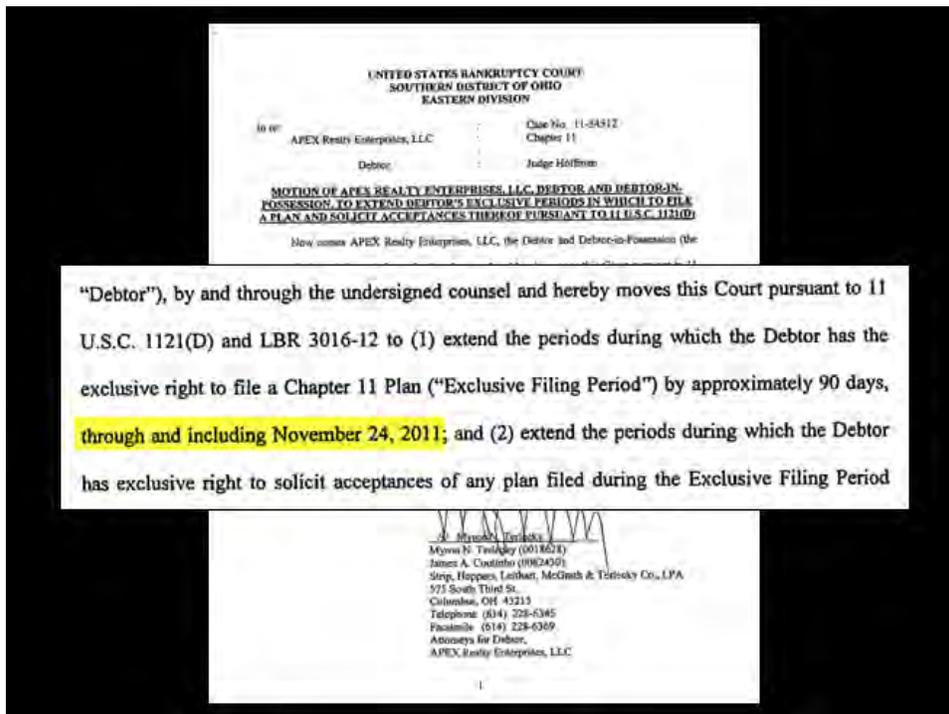
<u>Example – Instant Retrieval of Photographs</u>: By typing the Exhibit number or image ID, you can instantly retrieve an endless number of photographs and magnify or annotate them.

Example – Instant Retrieval of Video for Impeachment or Playback: In a trial presentation database, you can simply type in the video name, page and line number to play video to impeach a witness.

57:16   You shot Brent in the bedroom of your home,
57:17 correct?
57:18   A. Yes.
57:19   Q. That's a true statement?
57:20   A. Yes.

<u>Example - Instant Retrieval of PowerPoint Slideshows</u>: By typing the name of the PowerPoint slide show or other designated ID, you can retrieve and play PowerPoint slides or presentations at a moment's notice from within the trial presentation database. In other words, you use it as your control panel to retrieve and display all your exhibits.

Sound in the Courtroom

You can't always rely on standard laptop computer speakers to adequately amplify sound, especially in large conference rooms and courtrooms. Visit the venue and test the audio situation. I recommend the use of powered Altec Lansing speaker or a large PA speaker with an amplifier. If in a conference center, ask for a 1/8 inch sound feed so you can amplify sound through the conference center's PA system. If it is too expensive, you can always hold the microphone or lavaliere to your laptop's speaker. While a bit archaic and not my first choice, this actually works most of the time, but test it out in advance if at all possible.

Laptop versus Desktop Computers

Desktop computers are not made to be schlepped between courtrooms and hotel rooms every night. Laptops are made to be mobile – Desktops are not. Invest in a state-of-the-art laptop computer.

Remote Mice

It is strongly recommended that you invest in a non-infrared based mouse that has a reception rating of at least 50 feet. This will cut back on extra wires hanging all over the place and will give you the ability to advance slides from anywhere in the courtroom. Logitech makes a fantastic remote mouse with a built-in laser pointer and timer for approximately $50 which will fit your needs (Logitech R400 Wireless Presenter-0403 - $49.99 at Staples)

Portable Video Presenters/Cameras ("ELMO"-type devices)

It never hurts to have a portable video presenter for surprise documents that haven't been scanned. I have never had to use one since I use trial presentation software (Sanction/Trial Director), but it is something to consider for the right situation. Check out Samsung (http://www.samsungpresenterusa.com/products/product_main.asp). The average street price is about $1000-$2000.

Projectors

There are many good projectors on the market today. I have a preference for NEC and Panasonic because of their strong performance, warranty and service record. I recommend a projector with a rating of at least 3000-4000 ANSI lumens. If you don't have a huge need for a projector other than occasional trials, you should consider renting a quality projector for about $1,000 per week. Whatever you do, be sure that you have the phone number of a local projector vendor who can bring you a projector fairly quickly in the event that your projector unexpectedly dies in the courtroom.

Big Screen versus Monitors all over the Place

Another common mistake is wasting money on individual monitors for jurors and/or other people in the courtroom. In technology-unfriendly courtrooms, it is sometimes necessary to place *a few* monitors in key areas (witness stand, judge, opposing counsel, etc.), but most of the time a single large 7-10 ft movie screen is more than adequate for everyone. Don't complicate matters and spend unnecessary money on extra monitors unless it is absolutely required. On a related note, in my humble opinion, it is a colossal waste of money for courts to purchase individual monitors for jurors when the displayed image can be seen on a single large screen. Individual monitors for jurors also diminish attention from you as a presenter.

Tips/Advice About
Using Technology in the Courtroom

Don't Overuse PowerPoint

No Technology Replaces the Vividness of One's Own Imagination! You do not need a graphic or slide for every single thought or idea. Otherwise, you risk watering down your message and overloading the jury with information that should be spoken. Always ask yourself, does this slide advance the ball, or is it better left said.

Don't Misuse PowerPoint

PowerPoint's misuse is a nationwide epidemic. Critics of PowerPoint, like Edward Tufte, go to the extreme and say that the PowerPoint program itself facilitates the making of bad presentations. Moreover, PowerPoint "stupefies" our culture by encouraging fragmented thinking through bullet points and linear slides, further diminishing our attention span, and feeding us heaping spoonfuls of graphic sugar. I disagree. After all, PowerPoint is just a software program – a tool that humans use or misuse. When a seamstress sews a crooked seam, should we blame the sewing machine? If a presenter has poor content, bad graphics, or does not communicate clearly, should we blame PowerPoint?

If used properly, PowerPoint is extremely effective in delivering information to our fast-paced culture. We do live in a fast-paced, and sometimes, shallow culture. We sometimes want to be spoon-fed the answer - we have little to no attention span and we want to be entertained. We do want anecdotal sound bites - we have become stupefied to some extent. Okay. Now that we know our audience, lets tailor our presentation to our audience! Tufte cites reasons to support his opinion, but he neglects to identify the true evil which has nothing at all to do with PowerPoint. What Tufte is really doing is engaging in a highly academic discussion about how the media world is eroding our intelligence. He is arguing that PowerPoint furthers our culture toward content-free language such as sound bites and slogans. The truth is that PowerPoint is not the problem – people are the problem. PowerPoint slide presentations are not spontaneously created by software … people create PowerPoint slide presentations! PowerPoint is merely a reflection of the culture that created it … a product of its era. So what are your choices? Use PowerPoint or "heaping spoonfuls of graphic sugar" and keep their attention or not use it and potentially lose your audience?

It's like a candidate running for president refusing to debate on television because he/she believes television is eroding our minds! Get with the program … PowerPoint is an excellent tool *if it is used properly*.

Speak with Passion, Not PowerPoint

If your goal is to persuade and motivate, give a speech! You should scale back on the use of PowerPoint or other computer graphics. If your goal is to persuade and educate the jury, then it is okay to use PowerPoint IF you use it correctly. One author recently asked "Could you imagine if Martin Luther King, Jr. gave his infamous 'I have a Dream' speech using PowerPoint!?" This critic implied it would have been bad. I agree to a some extent. If Martin Luther King, Jr. used PowerPoint as 95% of lawyers do (standard bullet lists and over-used cheesy backgrounds), it would have been terrible. However, had PowerPoint been used to simply show a few select photographs in the background depicting discrimination, hate, love and freedom, his famous speech would have been just as good or better. It certainly wouldn't have made it worse! You have to evaluate presentations on a case-by-case basis.

Use Plain English in Your Speech and Graphics

First, use plain English that everyone understands. This is still the biggest mistake that lawyers make. Instead of saying "This litigation is before us today because the defendant failed exercise ordinary care in his relationship as a physician with the plaintiff, and such failure was the proximate cause of the plaintiff's damages, " simply say "A doctor must do what other doctors would do in a similar situation." Cut the jargon out of your presentations and speak like a human being.

Tutor the Jury in Voir Dire and Opening Statement

Jurors are pretty street smart, but when it comes to science and numbers, you better provide some tutoring up front! Less than half of the jury box will have math skills above performing basic one-step calculations. Create a visual glossary to explain terms that will be used in the trial.

Don't make the mistake of assuming that your expert will educate the jury for you. Create a road map for the jury ahead of time so they can spend more of their time understanding and analyzing your expert's position than learning a new complex vocabulary.

This is a very simple example of just one slide used to explain a TIA (Transient Ischemic Attack), or mini-stroke.
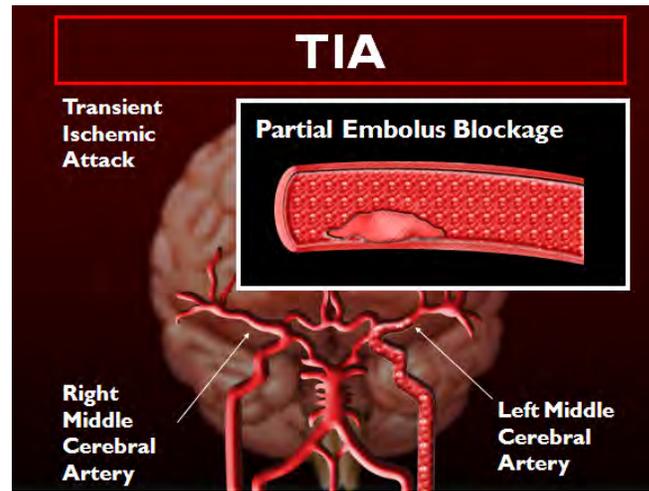
We used about a dozen similar slides to explain other important medical terminology.

Note that we did not create a text-based slide to define TIA or its symptoms. We could have, but felt that the visual, accompanied by good storytelling was much more effective. We showed the slide and then <u>verbally</u> informed the jury that a transient ischemic attack (TIA) is a stroke that lasts only a few minutes – that is what "transient" means. It occurs when the blood supply to part of the brain is briefly interrupted – that is what ischemic means … "decrease or interruption in blood flow." Further, that TIA symptoms, which usually occur suddenly, are similar to those of stroke but do not last as long. Finally that symptoms can include: numbness or weakness in the face, arm, or leg, especially on one side of the body; confusion or difficulty in talking or understanding speech; trouble seeing in one or both eyes; and difficulty with walking, dizziness, or loss of balance and coordination.

Have Strong Content in Your Spoken Words, Slides, and Written Materials

PowerPoint cannot mask the fact that your content or case stinks. Famous PowerPoint-Basher, Edward R. Tufte correctly states in his essay *The Cognitive Style of PowerPoint*[2] that it is easy to let PowerPoint shorten evidence and thought, organize complex information in a single-path model template, break up narrative and data into minimal fragments, decorate and fluff a slide show

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[2] Edward R. Tufte, *The Cognitive Style of PowerPoint* (2004), p. 4.

with format, not content; and promote an attitude of commercialism that turns everything into a sales pitch. All of these "evils" diminish content. Tufte strongly believes that PowerPoint promotes or actively facilitates the production of "lightweight" presentations. This is where I disagree with Tufte. I have personally witnessed thousands of good <u>and</u> bad presentations ... half didn't use PowerPoint and the other half did. <u>Content</u> and clear delivery dictated the success of those presentations – <u>not</u> PowerPoint.

Don't Dilute Your Message with too many Bullet Point Lists

Tufte, in his essay *Cognitive Style of PowerPoint*, claims that the PowerPoint programs coerces slide makers into using brief phrases in the form of bullet lists. Tufte claims that bullet lists make us stupid and lazy. Specifically, bullet lists are (1) too generic and (2) leaves critical information out.

First, the notion that Bill Gates is coercing us into using using bullet point lists is ludicrous. People who are forced into using the program lack understanding of the program and how to use its features. PowerPoint is nothing more than a blank piece of digital paper waiting to drawn, written and colored. No one is forcing anyone to use bullet point lists.

While I agree that bullet point lists are generally overused and too verbose, I also disagree with the notion that they shouldn't be used because they leave critical information out. Bullet lists in PowerPoint are incomplete <u>by design</u>! Bullet lists, used properly, are nothing more than headings or titles about a main thought or idea. The substance <u>behind</u> the bullet point is delivered verbally and/or in written materials (or trial exhibits). The key to using bullet points effectively is to NOT OVERUSE THEM.

Tufte claims that since text or data on paper is more complete, that people should follow along on paper and pitch PowerPoint in the garbage completely. Again, I must disagree. Tufte's criticism on this point is probably based on seeing countless bad presentations that contain slide after slide of bullet points.

First, PowerPoint was not designed to replace the information or data contained in printed literature. Second, PowerPoint slides and bullet lists <u>should</u>, in most situations, be incomplete. The audience still depends on a verbal presentation and written materials (although, admittedly I have seen some speakers simply handout their PowerPoint slides as the written materials – I strongly don't recommend it). Third, we use PowerPoint slides most of the time to introduce, simplify, and reinforce information. There is nothing wrong with that! It's kind of like when we use flash-cards (using index cards) to help us study for a test ... only PowerPoint is much prettier!

Focus on Clear Delivery

Steps to Create a Successful Presentation Supplemented by PowerPoint
1. Develop excellent content and handout materials
2. Practice the CLEAR delivery of that content
3. Prepare your PowerPoint slides based on what you need in 1 and 2
4. Practice, Practice, Practice <u>with</u> technology (PowerPoint &/or Sanction/Verdical)

Steps to Create a Bad Presentation Supplemented by PowerPoint
1. Prepare your PowerPoint slides
2. Speak from your PowerPoint slides

PowerPoint can fragment the presentation of thoughts and data *if you let it*. Heck, any visual aid can fragment a presentation *if you don't know how to transition smoothly*. This is why you should first write the content of your speech (or content outline). The second thing to do is focus on practicing its clear delivery. The last step should be to create your PowerPoint slides *based on demands from the content and delivery*.

While PowerPoint can fragment thoughts if you let it, the bottom line is that the author of the PowerPoint makes the decisions about content and delivery. PowerPoint is an incredibly flexible program. Its only limitations are (1) the creativity of its users/presenters, and (2) the failure to understand how to use the program effectively. For instance, Tufte in his essay (see footnote 2) often claims that PowerPoint is "low-resolution" and therefore cannot display as much information as paper. Therefore, its content will always be inferior to paper. This is just plain wrong. You can scan a high- resolution image, whether it is text on paper, data on paper, an illustration or a photograph and display it at that same high-resolution … only BIGGER … often times on a 10-20 ft. screen[3]. My point is this: Using your communication skills, creativity and knowledge of PowerPoint, you can easily overcome the problem of a fragmented presentation.

If the Slide is a Distraction, Then You Are Missing the "Point"!

The whole purpose of PowerPoint is to make a point – not a distraction. Avoid the over-use of distracting animation, sound effects and cheesy backgrounds. This is what gives PowerPoint a bad name! Animations and bad flashy backdrops can be very distracting. This obviously diminishes your presentation and your credibility. This doesn't mean that your presentation shouldn't look like a million bucks. Hire an artist or consultant to create an <u>original</u> background that is professional looking and one that no one else has seen. Pick one or two effects

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[3] Displaying an entire screen full of text, as Tufte suggests, is <u>not</u> recommended. That would be idiotic. Utilize written materials or exhibits for recitations of full text.

in PowerPoint to bring in text and graphics and stick with just those effects. I recommend the "fade" effect. This effect is very professional, tasteful and is not at all distracting.

Unless you are just starting to use PowerPoint for the first time, try to avoid the use of standard PowerPoint design templates. Most people have seen these templates and graphics dozens of times, if not more. Try to create graphics that give you a unique and professional brand. A great way to do this is to contact a local art school and hire a student to develop this for you. Tell them that you are looking to create a PowerPoint backdrop for your company's presentations. Ask them to create a JPG and then to produce a .potx or .pot file that you can load into your PowerPoint templates folder.

Here are some other excellent sources for PowerPoint design templates:

1. Digital Juice (www.digitaljuice.com). Digital Juice is a suite of thousands of PowerPoint backdrops and royalty-free graphics, clip art, sound and animation.

2. Microsoft Office Online (http://office.microsoft.com/en-us/templates). Microsoft publishes free templates that you can download.

3. Sonia Coleman PowerPoint Templates (http://www.soniacoleman.com/). This is a nice library of free templates and tutorials.

Design, Color, and Layout Is Important

Design conservatively and with professionalism. Most of the time you should use darker backgrounds (such as dark blue, green, etc.) and high-contrasting color text (such as white, yellow, etc.). A white background is okay makes the text harder to read, especially if you have more than one slide. Also remember to be color-blind friendly. One in ten of us have problems interpreting color. Avoid the combined use of red-green, green-yellow, and blue-yellow.

Does Color Matter?

Yes, but only in the sense that the presentation must appear professional. However, in the grand scheme of things, our real-life experience, backed up by focus group research, tells us that so long as it is professional in appearance and easy to read/see (admittedly, a very subjective standard), jurors don't give a hill of beans if the slide has a green background, a blue background or a black background. Furthermore, our research has shown that color used in a PowerPoint slideshow in the context of a trial does not affect memory retention. Jurors pay more attention to the content (merits of the case) and delivery than

the aesthetics of a PowerPoint presentation. The failure to use PowerPoint or some other visual memory-reinforcing aid may affect memory retention, but color generally doesn't matter.

The exception to this is when you deviate from a color scheme. Say you use white text on a blue background in a 20 slide presentation. Then you decide to use yellow text on a blue background for on slide 10. That <u>will</u> indeed have a positive effect on memory retention. However, it could easily be argued that the same effect could be accomplished by changing the font or underlining.

Use Fonts That Are Easy to Read

Avoid the use of Courier and Times New Roman fonts. Instead use fonts like Calibri, Tahoma, Arial and Helvetica. These fonts are easier to read from longer distances and the "nose-bleed" seats.

Give the Audience Extra Space on Your Slides - Avoid Clutter!

Avoid information overload. Your slides and graphics should not be too cluttered. Try to limit bullet lists to 3-4 per slide with no more than 10-12 words on a single slide. Don't obsess over this. Of course there are exceptions to every rule. For example, if you want to display a statute or a jury instruction, how are you going to limit that slide to 10 words? You can't! If you can adhere to these general rules or goals 90% of the time, you will be in great shape.

Mix Up the Media!

Remember to use white boards, chalk boards, easels and enlarged pictures from time to time. There are multiple reasons for this. First, a jury can become bored with PowerPoint and a movie screen just as easy as they can with a chalk-board. We know from the television industry that changing the frequency of angle-shots within the same visual scene improves memory recognition. Count the number of angle changes within the same visual scene in a sitcom from the 60s versus a sitcom (or reality shows) created today. This teaches us that people are easily bored. So mix up the media. The second major reason for not relying on PowerPoint 100% of the time is that sometimes you want an illustration, timeline or photographs sitting on an easel for a long period of time so the jury can look at it for clarification or other reasons. If you have a blow-up, you can do that <u>and</u> also show PowerPoint slides or images through Sanction.

Don't Read or Use PowerPoint as an "Outline"

Many people wrongly believe that is it appropriate to read PowerPoint slides or use it as an outline. I respectfully submit to these people that they have been led down the wrong road. There is nothing wrong with using a slide here and there to remind you of an important topic. However, there is a big difference between that and creating slides with outline numbering and long lists. Don't do it. It is lazy, grossly ineffective and painful to watch as an observer. Your message gets lost in all the needless slides and text.

Backup, Backup, Backup!

In smaller dollar cases that cannot justify the expense of a trial presentation consultant, the biggest mistake that I see is failing to bring a backup computer, external USB hard drive or projector. When things go wrong, as they sometimes do, you <u>must</u> have backup equipment. Good rule of thumb – bring 2 of everything.

Someone Else Should Run the Presentation

If a CLE presentation, and it is just PowerPoint that you are running, it is fairly easy to run the presentation yourself if you are comfortable with it. You may want to bring an IT person or assistant with you who is comfortable for a time or two until you become comfortable enough to do it yourself. Now days, so many people are comfortable with running PowerPoint that you can probably find a stranger or an audio/video coordinator to help you. Don't bank on it though. You should learn enough to at least add/remove slides, make textual changes, and connect the laptop to the projector before you fly solo.

If a courtroom presentation, it is probably a mistake to run the presentation yourself. Running the technology in the courtroom and trying to be a trial lawyer is asking for trouble. Whether it be a paralegal or a consultant that you hire, whatever you do, don't run the presentation yourself. Being in the trenches of high-tech trials on a daily basis, I can honestly say that at least one potential disaster occurs each month. These issues should be invisible to the lawyers, jurors and judge! Lawyers have enough to worry about trying to hit 90-95% of the important issues in the case. The last thing that you need is to worry about a failing hard drive or replacing a bulb in your LCD projector.
Delegate these worries to someone else!

Hire Professionals When Appropriate

Don't bite off more than you can chew, especially on a big case. When the case justifies the expense, hire a professional artist and a professional consultant to put your presentation together. Us lawyers tend to believe that we can do it all. Think again. Not only do most of us lack the talent of a professional artist & consultant, but if we tried to do their work at their level, we wouldn't have time to practice law. I am reminded of what one of my early mentors taught me long ago. Early in my career, I tried do everything – practice law, rehab old houses, fix the plumbing, build computers, etc. Frustrated with me at the time, my mentor asked me if I wanted to practice law or play with computers. I quickly got his point. Ironically enough, I now play with computers.

It's Never Too Early to Get Training

Lawyers are text-book procrastinators. Look, you cannot wait until one month before trial to become proficient with a software program that is going to either make or break you in the courtroom! There are fantastic training programs available for programs like Sanction and Trial Director. Get your training out of the way four to six months before your trial and think about using a professional consultant to hold your hand through your first trial.

Get Approval from the Court in Advance

Exercise professionalism and get permission from the court in advance. You clearly do not have to expose your entire game plan. Simply tell the court at the appropriate time that you may want to display some evidence through the computer and a big screen. Ask if this will be okay.

Treat the Court Staff and Courtroom with Respect

Would you walk into the judge's private office and start rearranging his/her furniture? Would you set up a 10 ft movie screen in his/her private office? Heck no, you wouldn't! Not unless you had a death wish. So don't do it in the courtroom without first making friends and consulting with the judge, bailiff, court reporter, court clerk, or others that use that courtroom as his/her office on a daily basis. How would you like it if someone just walked in and started rearranging your office?!

Three Guiding Principles for Using Technology in the Courtroom:

(1) Have something meaningful to present;
(2) Forget what you learned in law school and say it like a human being; and
(3) No technology in the world is going to help you with the Rules 1 and 2!

Paul J. Unger, Esq (punger@affinityconsulting.com) is an attorney and nationwide trial presentation consultant for Affinity Consulting Group..

Tell me and I will forget
Show me and I will remember
Involve me and I will understand

- Confucius hack (but a wise hack)

PowerPoint for Legal Professionals

Paul Unger, Esq.
punger@affinityconsulting.com

EXERCISE 1

Starting a Presentation – Creating a Title Slide

1. When PowerPoint starts, a brand new presentation opens with a blank first slide.
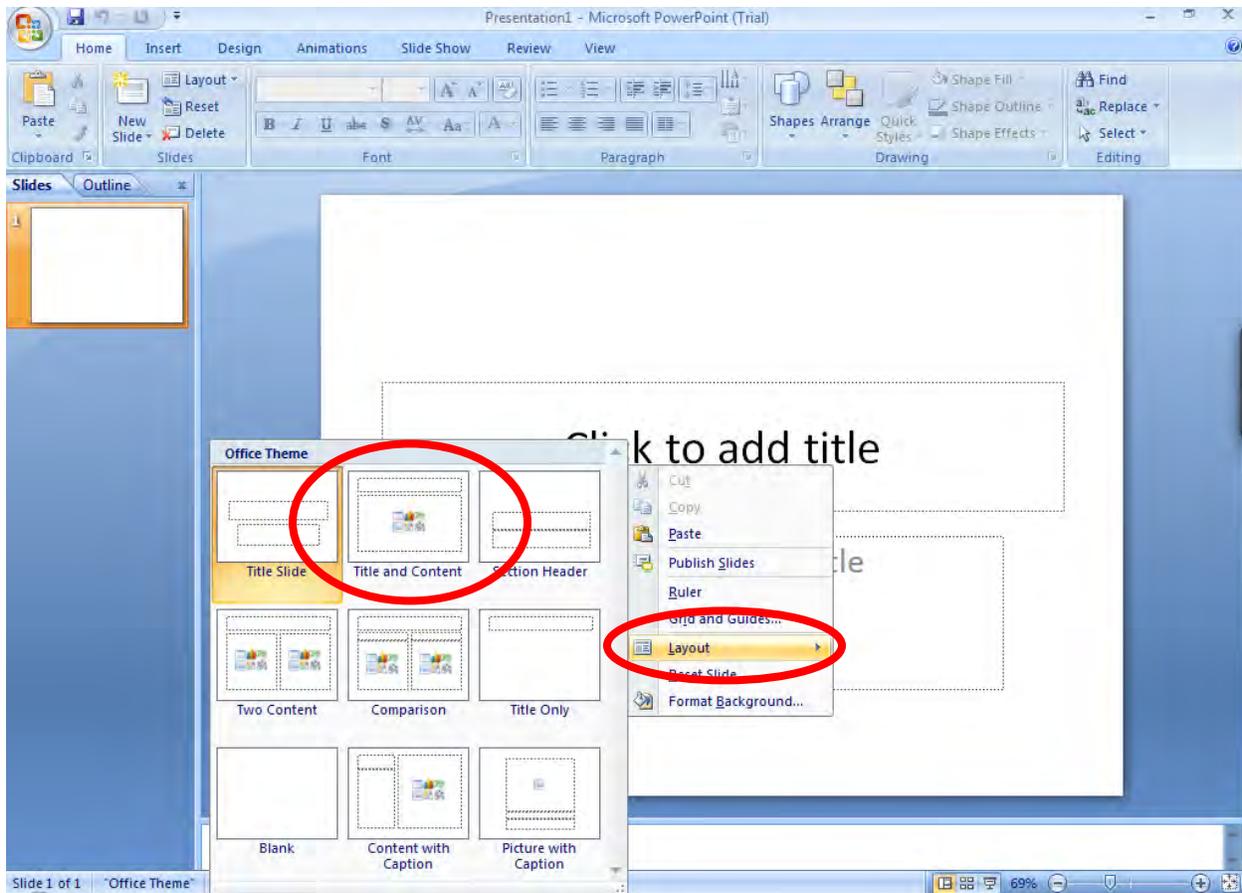
2. Right-click and select **Layout** and select the desired slide layout.

3. Click in the area that says "**Click to add title**." Enter some text as a title for this presentation.

4. Click in the area that says "**Click to add subtitle**." Enter some text as a subtitle for this presentation.

5. In the Ribbon above, select the **Design** tab. Here you can choose a pre-fab cliché run-of-the-mill boring background for your PowerPoint presentation.

Saving Presentation as a Template

1. Once you have formatted the color, font and created the desired graphical layout that you like, you may want to save it for later use. To do so, select **File** and **Save As** and then select PowerPoint Template (*.potx).
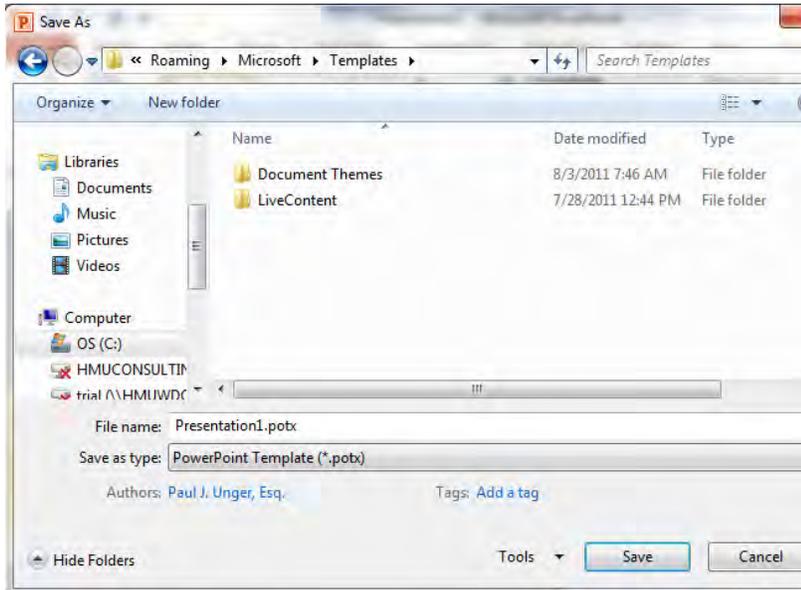
2. To access/use that template, select **File** > **New** and **My Templates**.
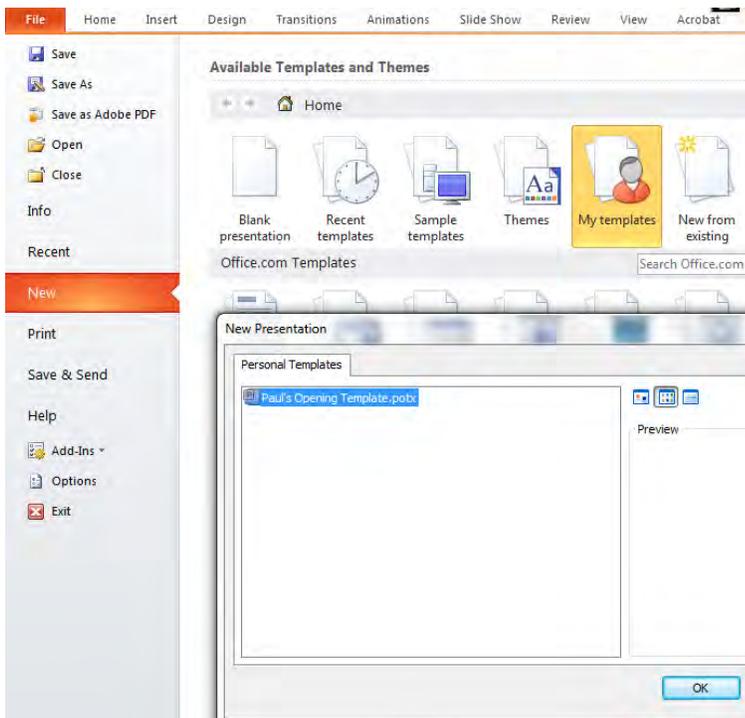
EXERCISE 2

Creating a Bullet Point Lists

1. On the **Home** ribbon, select the **New Slide** button. Select **Title and Content**.

2. The new bullet list slide will be inserted as the second slide. Now click in the **Click to add title** area and add some text as the heading for the bullet list.

3. Click in the bulleted **Click to add text** field and add the first of your bullet points. Hit **Enter** to advance to the next line and add additional bullets.

4. To change the appearance of the bullets in the list, click and drag your mouse over the bullet points you have created to select the text. From the **Home** ribbon, click the drop-down menu from the bullet-point toolbar button and select the desired bullet style.
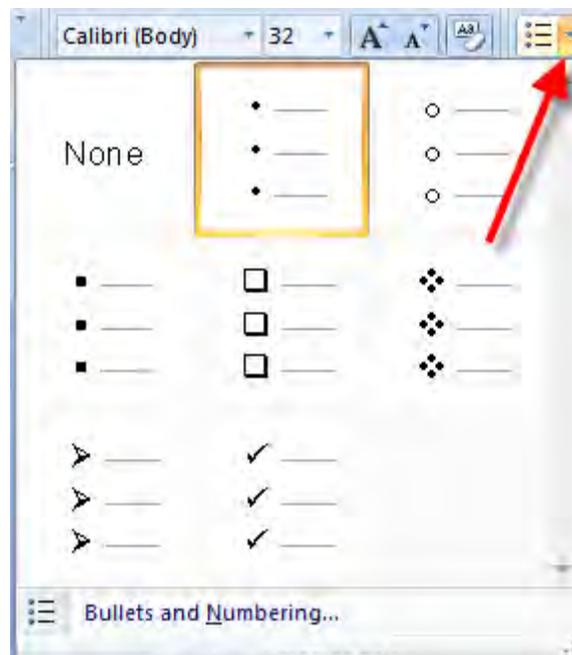
5. To animate your bullet list so each one comes in one at a time, select the **Animation** ribbon and then **Custom Animation**. In 2010, the custom animation is found under the **Animation** ribbon and **Add Animation.**
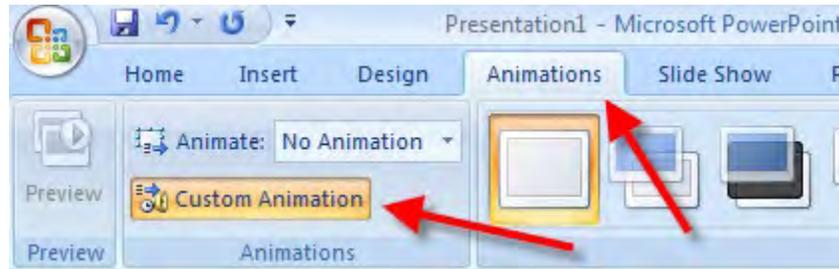
6. The Custom Animation task pane will appear on the far right hand side of the screen. Select the desired bullet points to animation as seen below.

7. Next, select which kind of custom animation you would like for that bullet point from the **Add Effect** drop down menu on the far right hand task pane. Repeat for each bullet, if desired. In the future, it may best to animate the first bullet point and then when you hit **Enter** a new bullet point is created with the animation, so you do not have to animate each bullet separately.
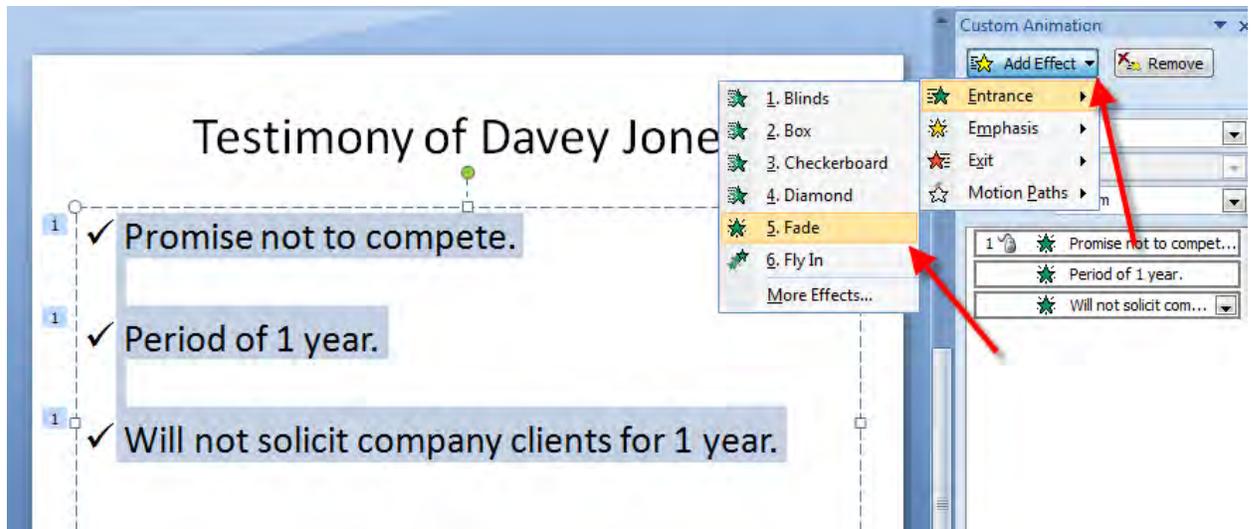
EXERCISE 3

Slide Transitions

To give your presentation a really cool feel, you can apply what is called a transition between slides. As an example, this could add a fading effect between slides. You also can add a checkerboard, sliding, and many other effects.

Select one of the buttons seen below (with the shorter red arrows) and then apply to the slide you are actively working on, or to all.. PowerPoint 2007 will show you a preview dynamically.

1. On the **Animation** ribbon, select the desired transition and click **Apply to All**.
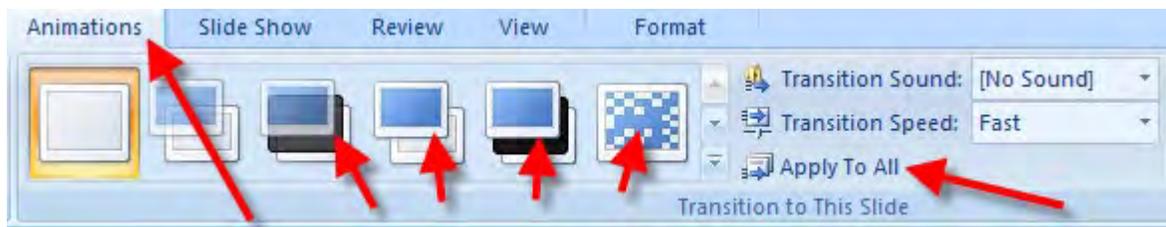
In PowerPoint 2010, transitions is a dedicated Ribbon:

EXERCISE 4

Inserting Clip Art & Photographs

Available Options

Various types of clip art and picture formats can be inserted into a PowerPoint slide. The most typical file type is the jpeg format. Clip art consists of pre-made graphics to use at any time. Pictures can be scanned images, photos from a digital camera, pictures downloaded from the web, or other sources.

Inserting

1. To insert clip art go to the **Insert** ribbon and click on the **Clip Art** toolbar button.
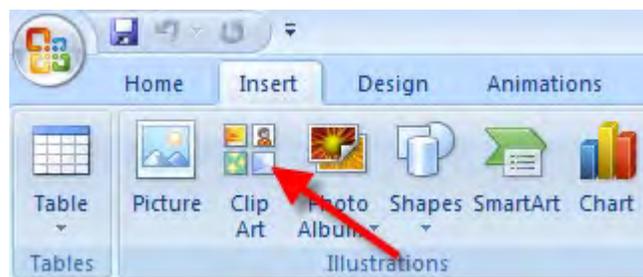
2. A task bar will come up on the right side which you can search for any clip art you would like to insert.
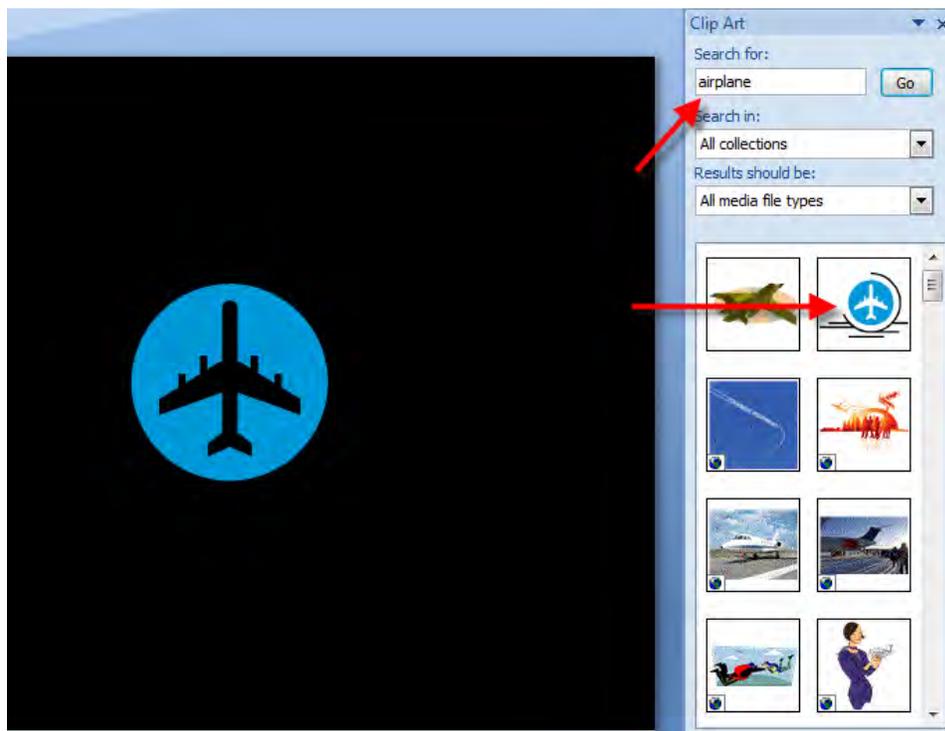
3. To insert a **Photograph** go to the **Insert** ribbon and click **Picture**. Browse to the location where the graphic file resides. You can either double-click on the file or select it and click **Open** at the bottom of the dialog box.
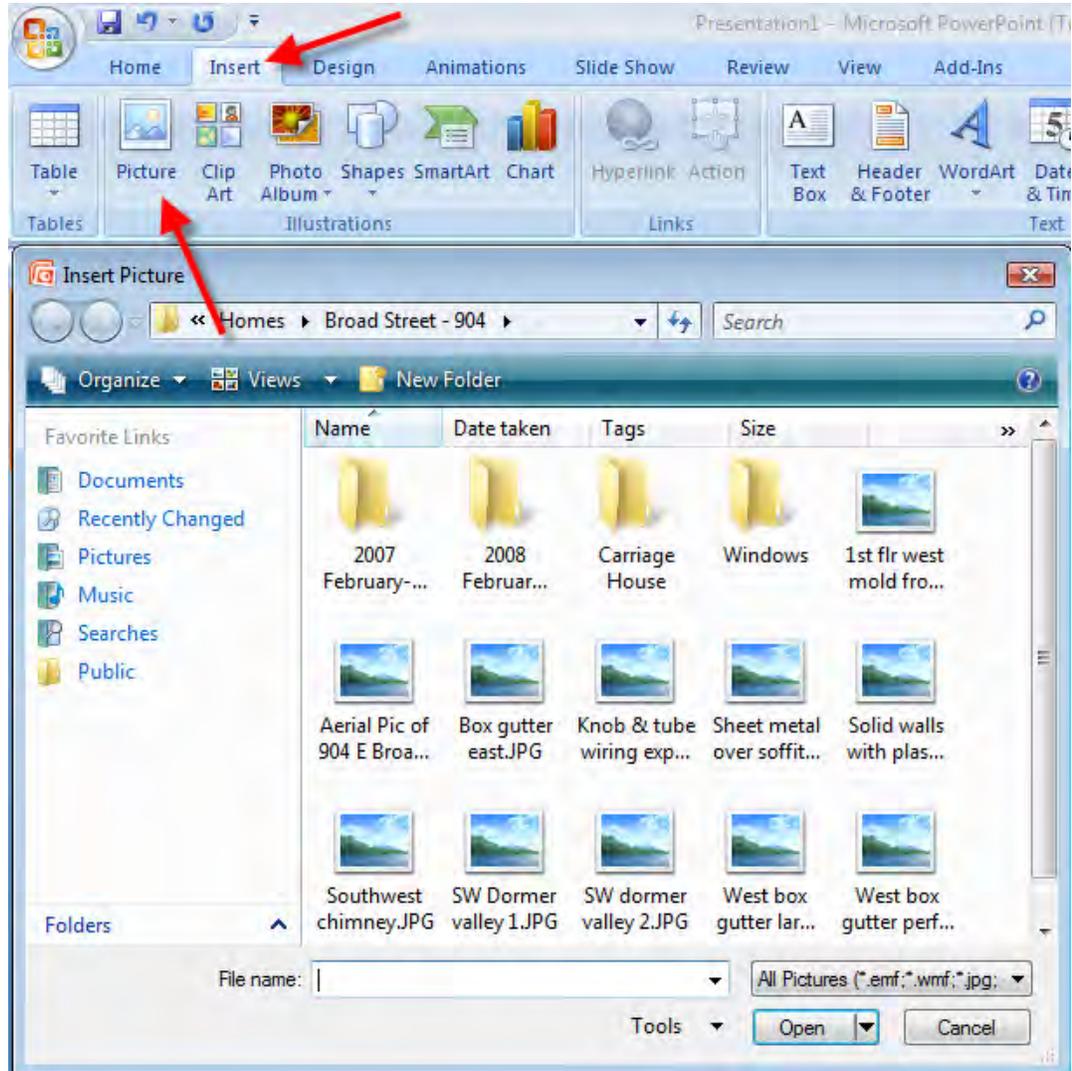
### Changing your background slide color to Black

Often times, it is desirable to make the background color black when displaying photographs or clip art. White tends to be harder on the eyes and black just displays the image better most of the time.

1. Right-click on the background and select **Format Background**.
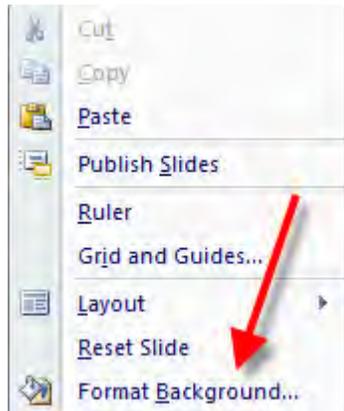
2. Select the desired color and click **Close** to apply the color to just that slide, or select **Apply to All** to apply to all slides.
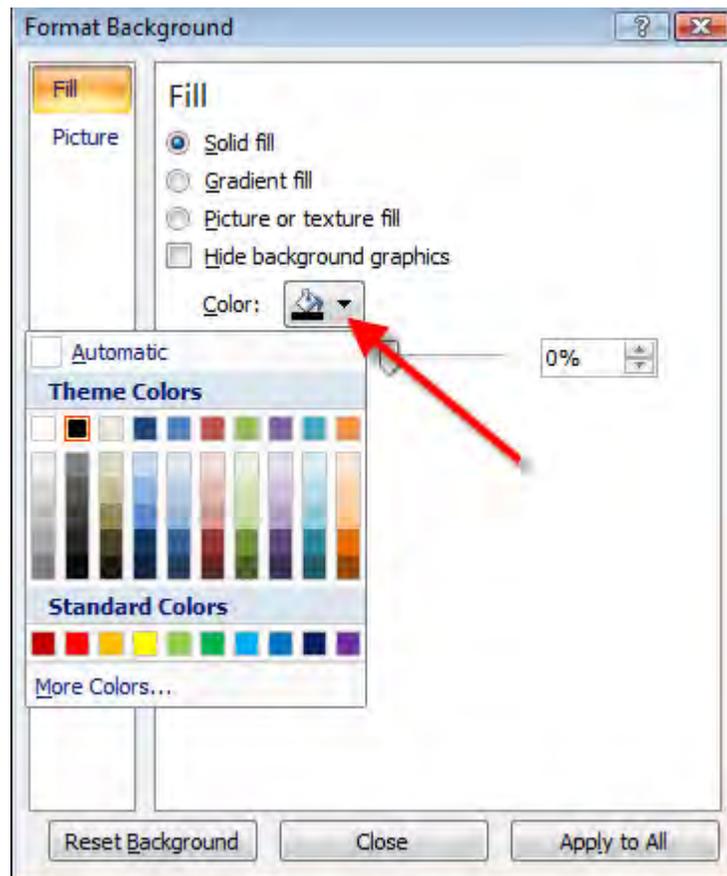
Inserting PDF Images into PowerPoint

Inserting an image from a PDF is unfortunately <u>not</u> an option from within PowerPoint. A portable document format (PDF) is not a true graphic file. However, since many people have documents or images provided to them in PDF format, below are instructions for getting those PDFs, or parts of PDFs, into PowerPoint <u>without</u> having to re-scan the document or image.

1. Open the PDF file in Acrobat.

2. Use the **Snapshot** tool in Acrobat (select the Snapshot toolbar button (the camera) or from the menu bar, select **Tools, Basic, Snapshot Tool**). Clicking on the image with the cross hairs selects the entire image. Dragging the cross hairs allows you to crop and select the image.
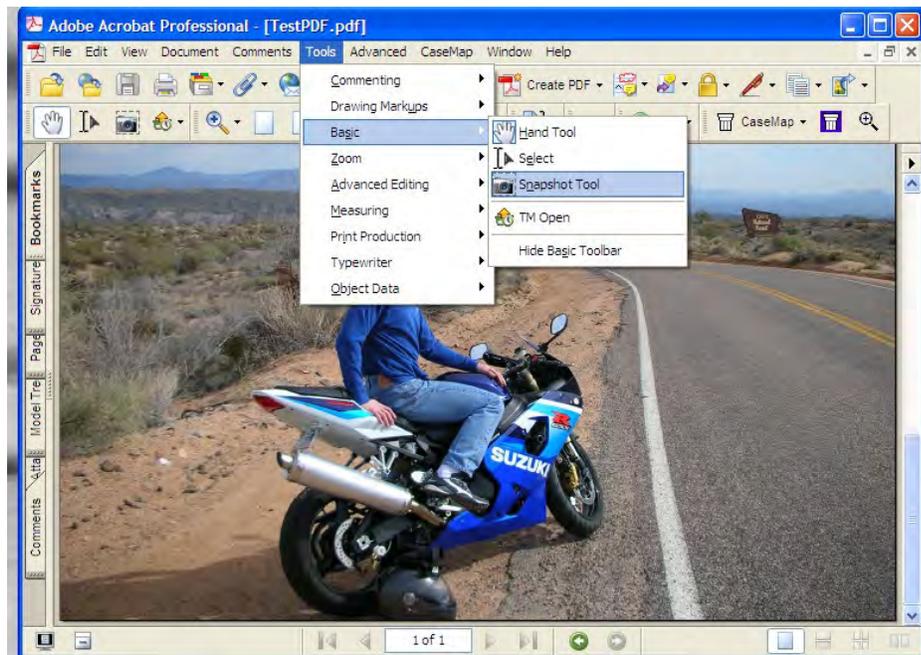
3. Adobe will prompt you to inform you that the image is saved to the Windows Clipboard. Select **OK**.

4. Return to PowerPoint and select Paste or Ctrl+V to paste the image into the desired slide.

Resizing Clip Art or Photographs

PowerPoint may insert the picture in a size that doesn't fit. Depending upon the resolution of the picture inserted, it may be too small or too large. Inserted pictures can be easily resized by using the same method as resizing Clip Art images. Use your mouse to click and drag the resizing handles. **Always use the corners to resize images** so you do not skew the image. The entire picture position on the slide can also be moved by clicking and dragging the image itself to another location on the slide.
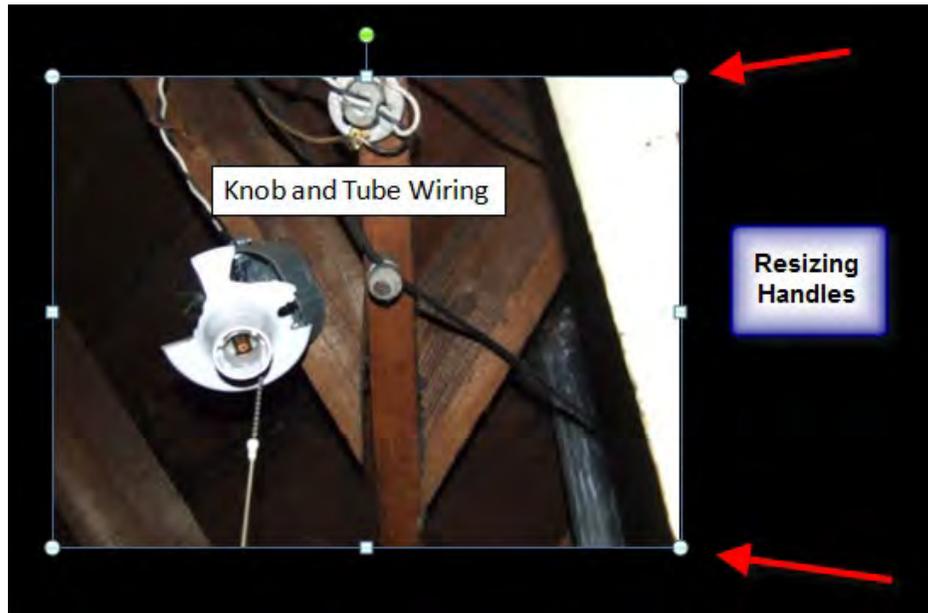
Adjusting the Quality of Photographs

You can adjust the quality of photographs by double-clicking on the photo and going to the **Format** tab and ribbon. You will see a group called **Adjust**. Here you can adjust the brightness, contrast and color. You can also decrease the size of your PowerPoint file by using the **Compress Pictures** function.

Inserting Large Numbers of Photos All-at-Once

1. Open PowerPoint and select **Photo Album** from the **Insert** ribbon.

2. Select **File/Disk** and then browse to the location of your digital photographs. Select the desired photographs (TIP - CTRL-A will select all) and click **Insert**.
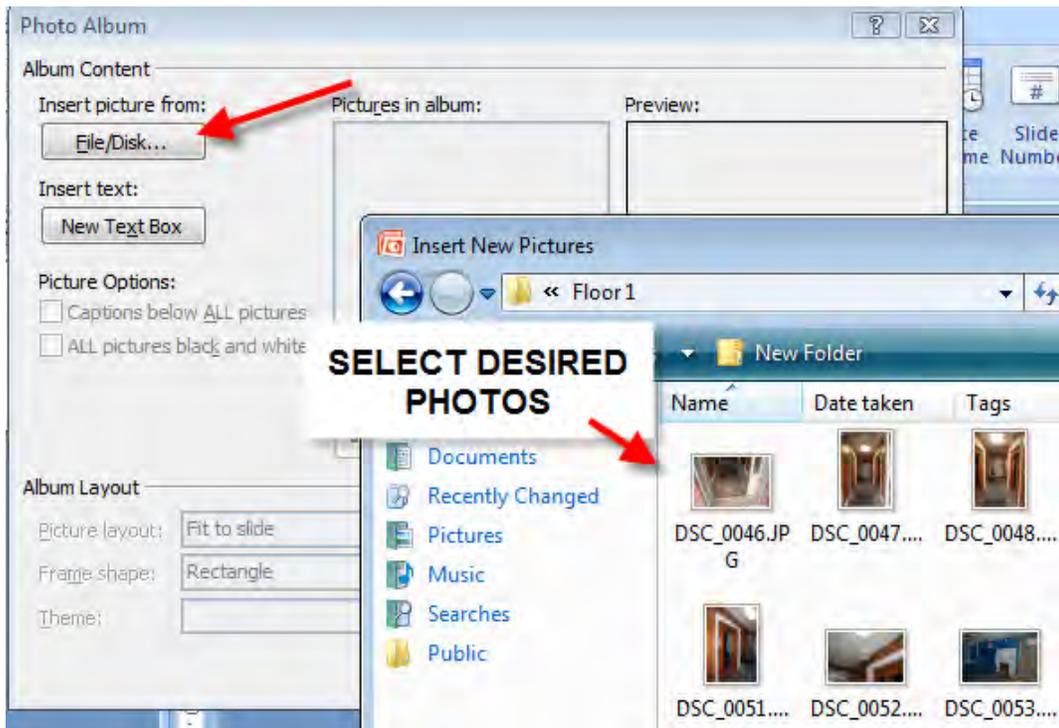
3. Here, you can re-order them, rotate, adjust brightness and contrast. Select **Fit to slide** in the **Picture Layout** field and then click **Create** to create the presentation.
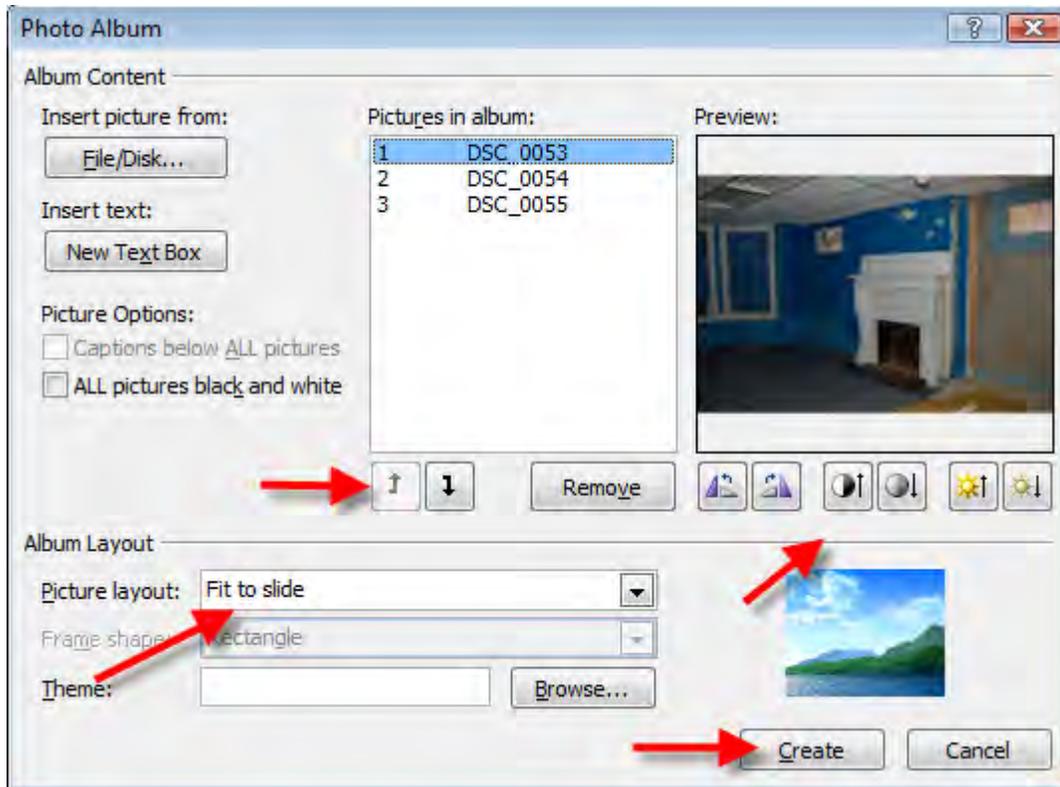
4. If you want to use these slides within an already-existing PowerPoint show, save this one and exit. Note the location. Open your other PowerPoint file and from the **Home** ribbon, select **New Slide** and **Reuse Slides.** Browse out to the photo album that you just created and insert all or just the desired slides.

Inserting Labels, Captions using Text Boxes

1. Click on **Insert** ribbon and then the toolbar button called **Text Box.**

2. Move your cursor where you want to place the text box and left mouse click.

3. Type the desired text and format it appropriately (i.e., color, font and size).

4. Finally, drag (move) the box (like any other object) to its final placement so it looks nice.

EXERCISE 5

Creating Document Callouts

1. Scan the document that you would like to use and save it in as a TIF.

2. As we did earlier, go to the **Insert** ribbon and click **Picture**. Browse to the location where the document, saved as a TIF, resides. You can either double-click on the file or select it and click **Open** at the bottom of the dialog box.
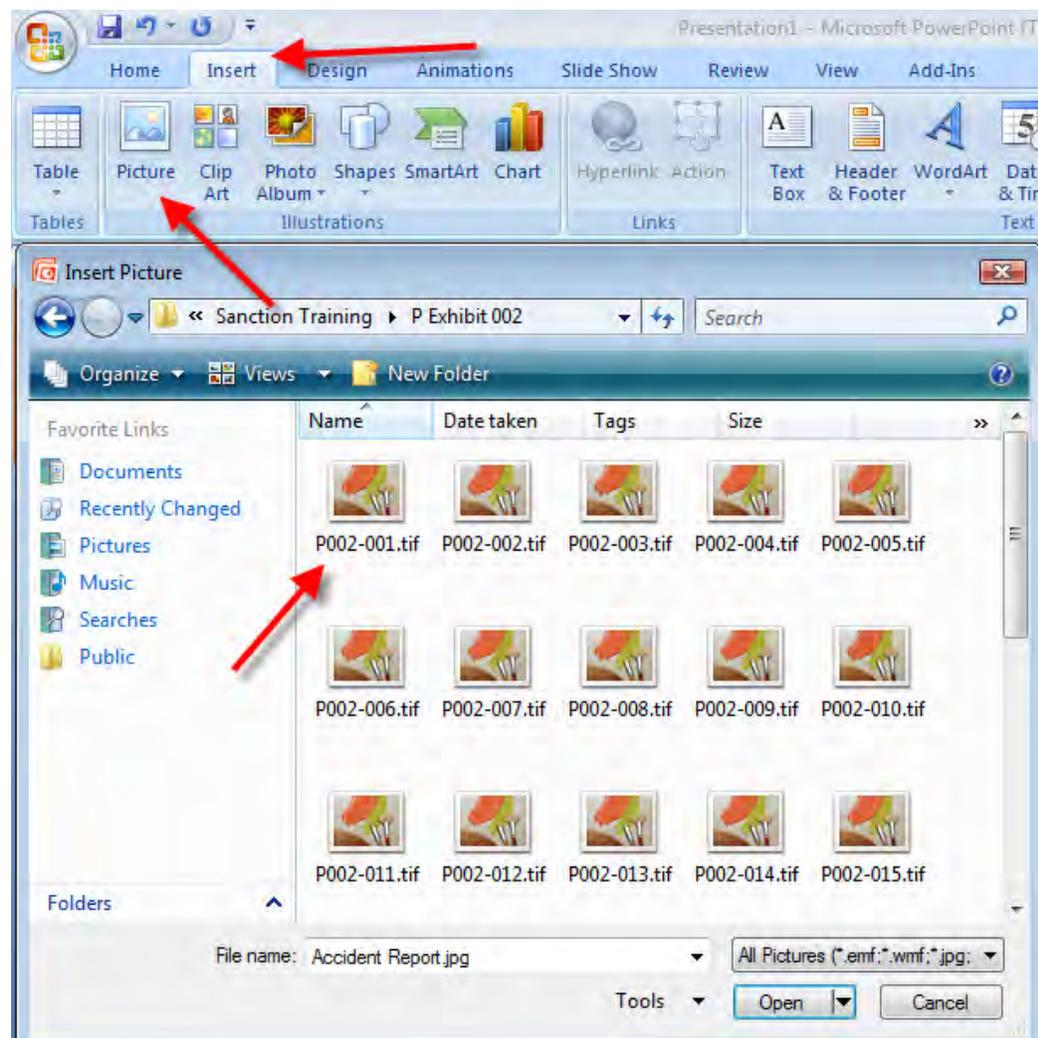
3. The document will appear. Resize it so it fits on the page and duplicate it by clicking on it, copying it, and pasting it so there are two of the same objects on the slide.

4. Double-click on one of the images to get the crop tool to appear from the Drawing Toolbar. Create the "Callout" by cropping the copy using the **crop tool**.

5. After you have cropped the callout, you can resize it (making it larger) just like we did previously with the picture.
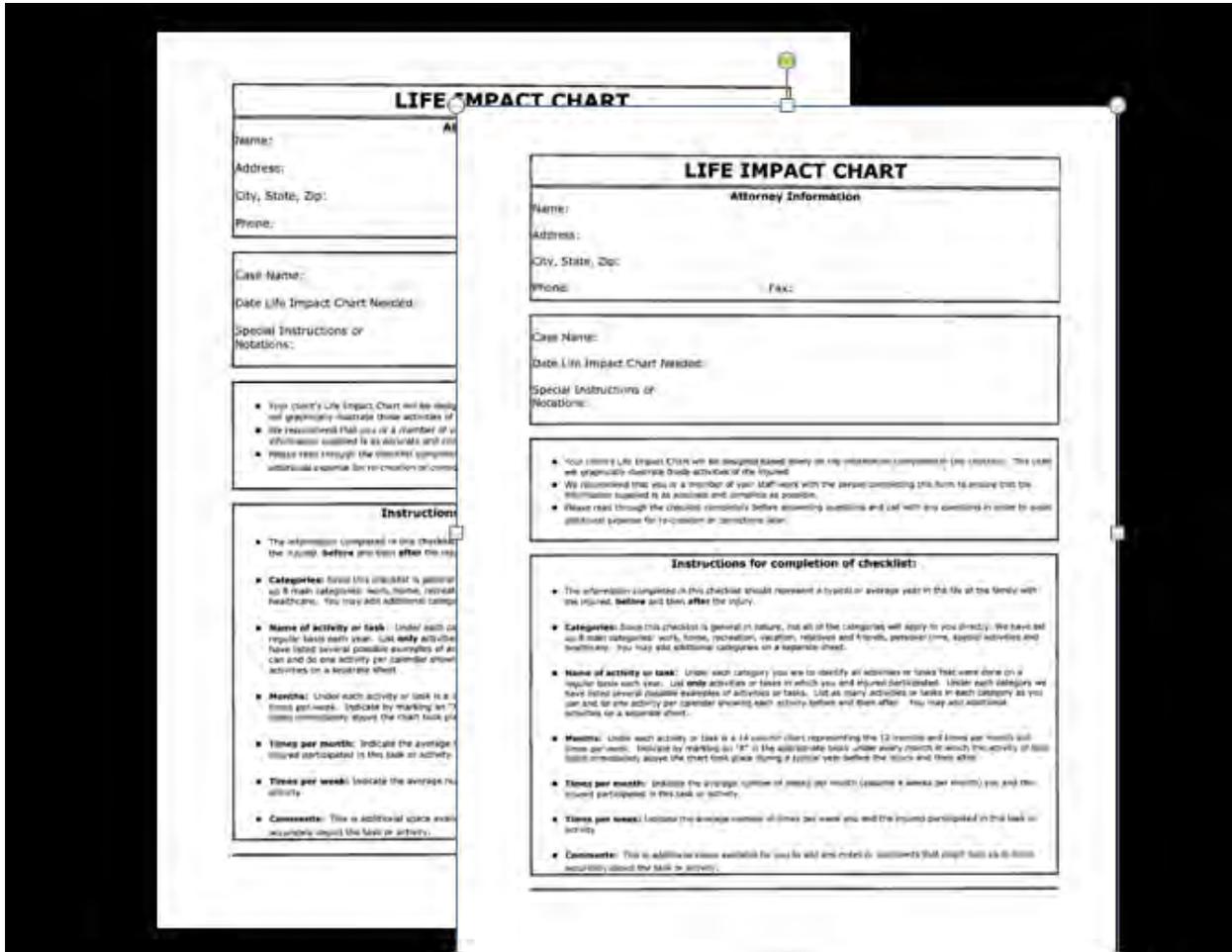
6. You can animate the objects from the **Animation** ribbon by going to **Custom Animations** or **Add Animation** button and choosing an entrance effect for each object.

7. If you want to you can also add a highlight with a transparent box. You must double click on the box after you have created the size of box you wish to have, then make it yellow (or any color that you wish to make it). Make it as transparent as you like using the scrolling bar.
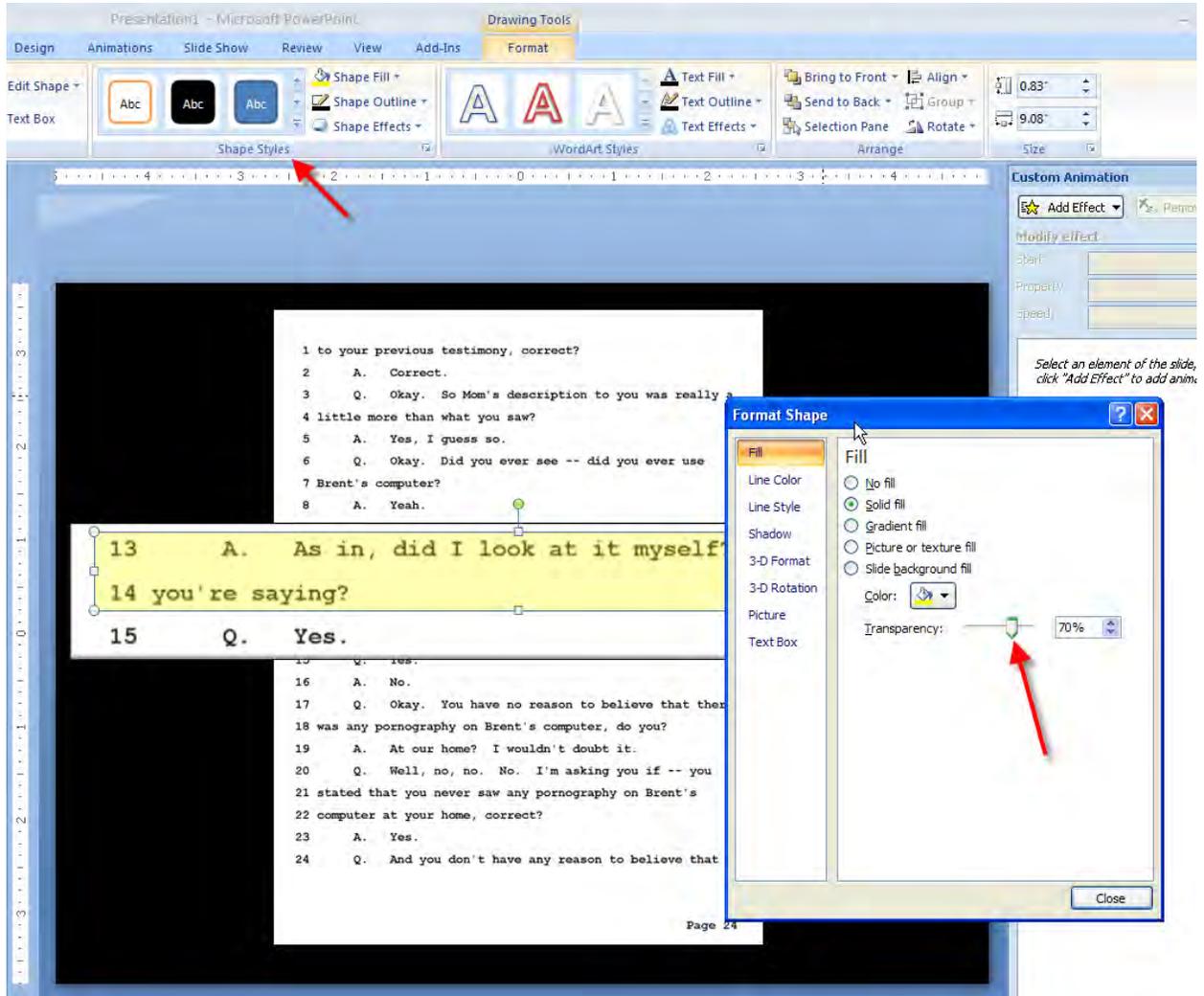
Alternative Highlighting Method for Documents

To achieve high-quality highlighting, it is best to bring the callout into a photo-editing program like **Photoshop or Photoshop Elements**, perform the crop and highlighting, and then save it as a separate JPG to be inserted. This takes significantly longer than the above-procedure, but it provides an excellent result.

An alternative purchasing a program like Photoshop or Photoshop Elements is using the **Snipping Tool** which is part of Windows Vista or Windows 7.

To create a crop and highlight using the Snipping Tool:

1. Open the document (as a TIF, PDF, JPG, whatever format) that you want to crop and highlight so that it is displayed largely on your screen.
2. Start the Snipping Tool in Windows 7 or Vista.

3. Draw a box around the area of the document that you would like to callout.
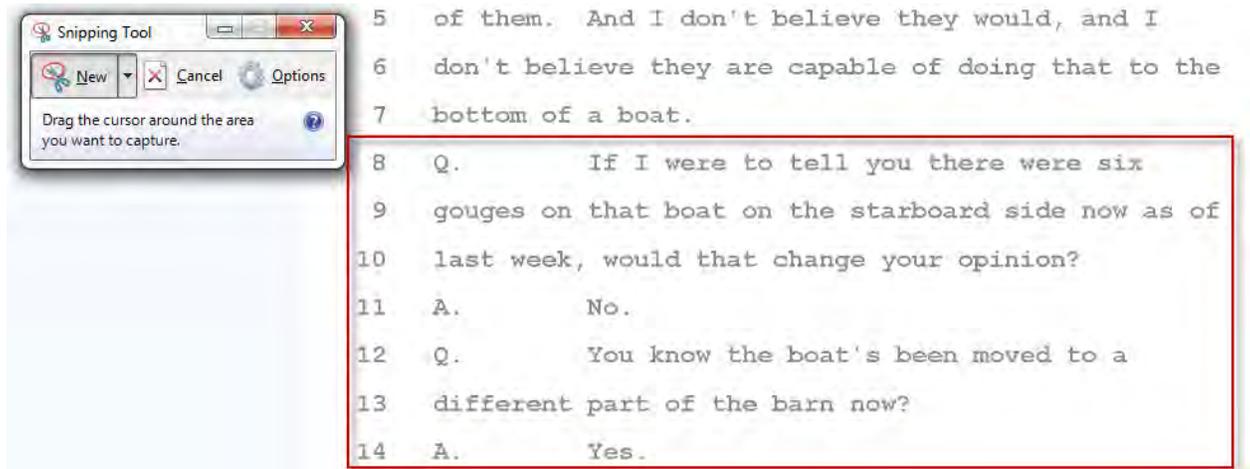
Other Alternatives:

- If working with a text-searchable PDF, apply the highlighting and then use the **Snapshot** tool.
- If you have Sanction or Trial Director, you could apply highlighting in Presentation Mode and then save the image. Browse to the saved location and then insert it into PowerPoint.

4. Using the **Highlighter** tool, highlight the desired area. Then click on the **Copy** button (this will copy the image into the Windows Clipboard). In PowerPoint, **Paste** the image into the desired PowerPoint slide and then apply an animation to the inserted image.
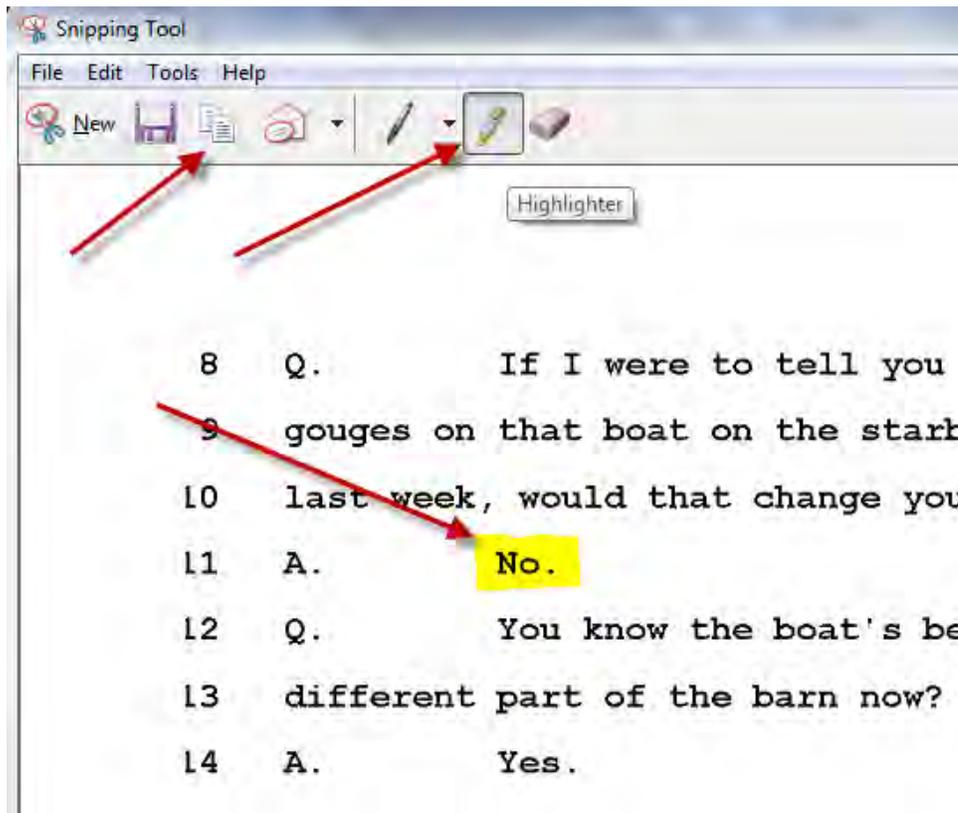
EXERCISE 6

Inserting Video Clips

1. From the **Insert** ribbon select **Movie.** Browse to the location of the movie file, select it and click **OK**.
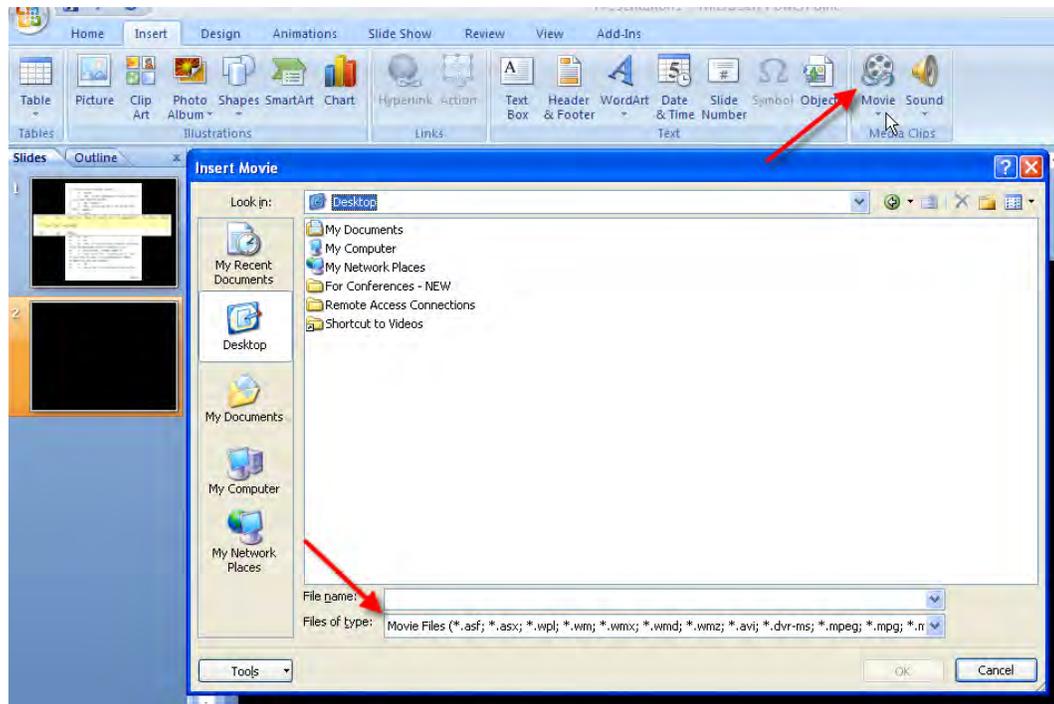
The most common formats will be mpeg, or avi.

After choosing the video you choose to insert you will get this message. Most every time you will want to choose **When Clicked** (you don't want it to start playing automatically when the slide appears … you may not be ready in the middle of your presentation).

EXERCISE 7

Using Color & Animation to Fill Objects

1. Insert a graphic file into your slide (**Insert** ribbon and **Picture**).

2. Select S**hapes**, then **Lines**, and **Free Form**.
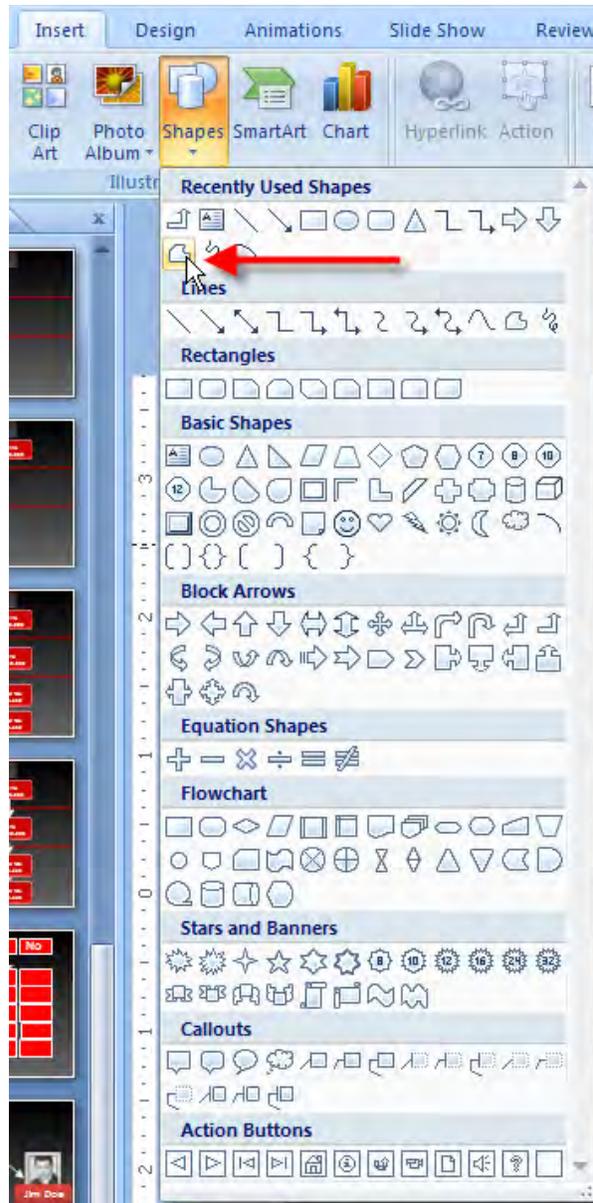
3. Draw the area that you want to fill with color using your mouse and left-clicking around the shape.
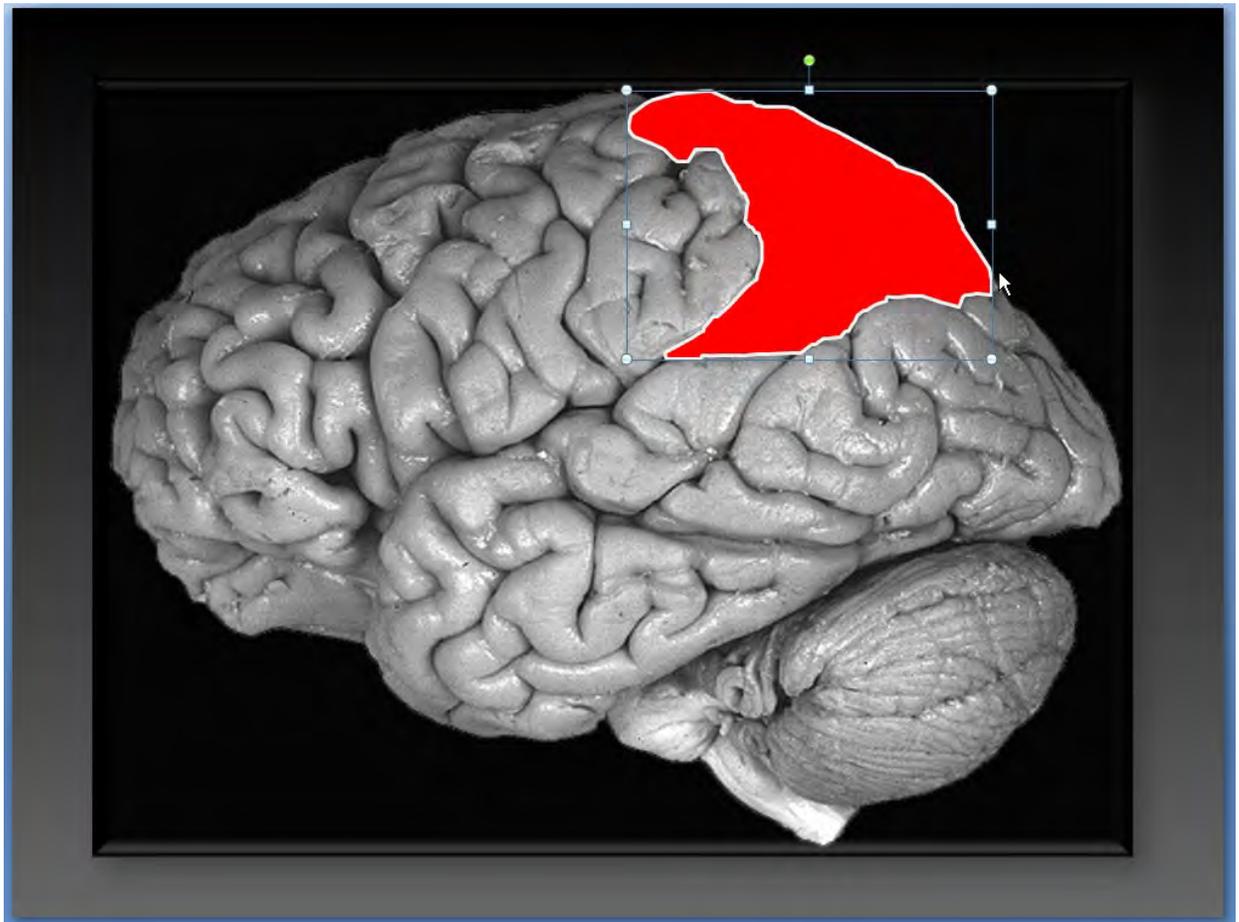
4. Right-click on the drawn object and select **Format Shape**.
    a. Select the desired color in the **Fill** selection.
    b. Adjust the transparency to 40-60%.
    c. Select **No Line** in the **Line, Color** section.
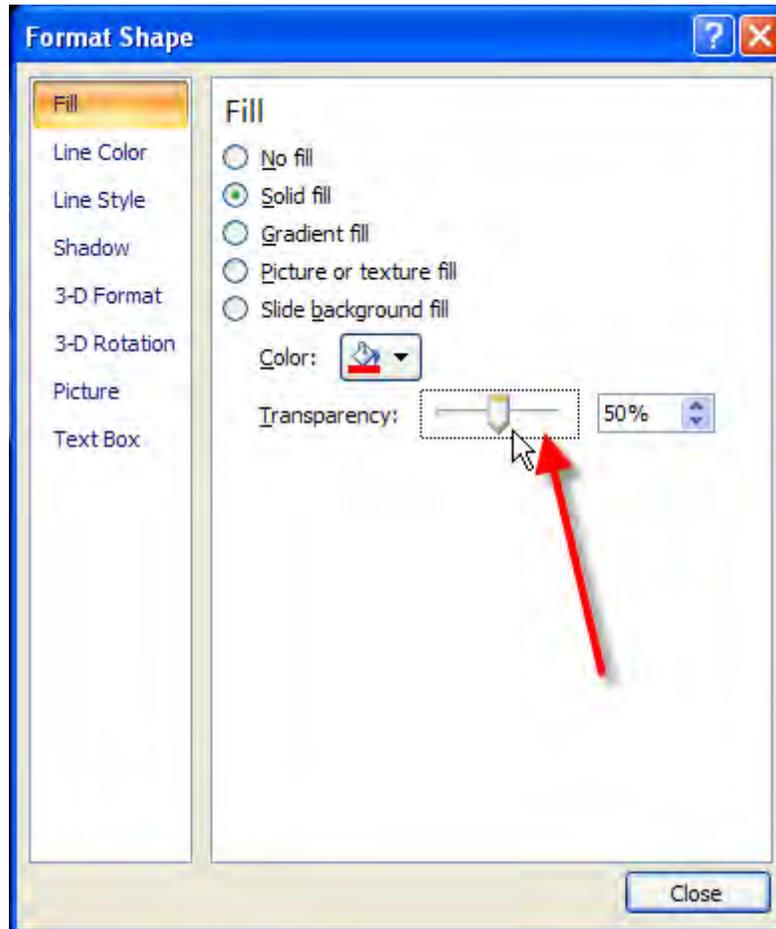
5. Repeat steps 3 and 4 as needed to fill in any other color in the diagram.

6. Select the first colored object that you would like to animate. Add and animation such as **Wedge** or **Fade**. Repeat for each area that needs to be introduced.

EXERCISE 8

Inserting Sound Files

1. Go to the **Insert** ribbon and select the **Sound** button.
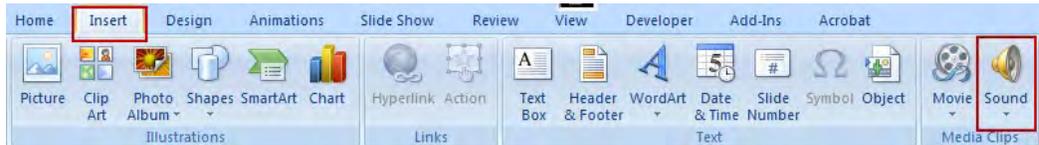
2. The most common formats are mp3, mpa, or wav. You will have to convert your sound file to those formats if you have a 911 call or a recorded message that you would like to play back. You can use a program like Cakewalk Pyro (www.cakewalk.com) to convert an analog tape to digital.

3. Locate the file and selecting the desired sound file and clicking **OK.**
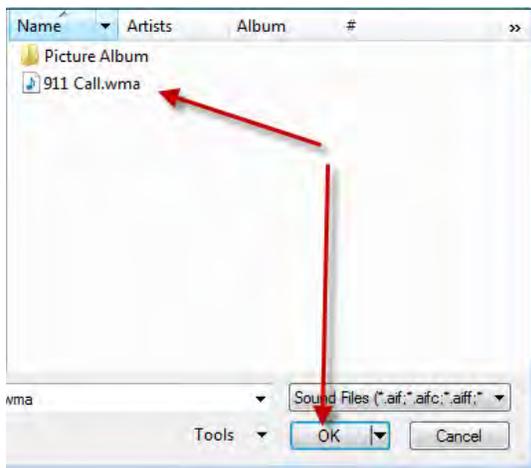
4. You will get the message once again about whether you want to automatically play or when clicked. Most every time you will want to choose **When Clicked**.
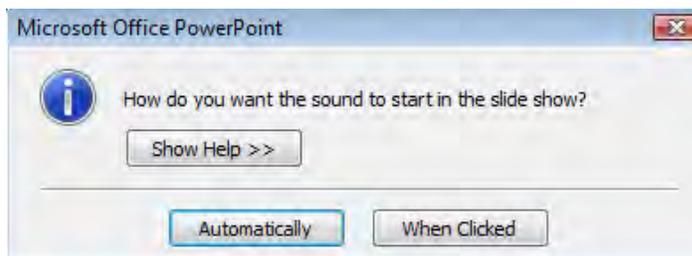
5. After inserting the sound file you may want to add a picture, a label or an appropriate background.

EXERCISE 9

Flow Charts

1. Drop in a rectangle or any other **Shape** from the **Insert** ribbon. Type the desired text inside the rectangle and format the text appropriately.
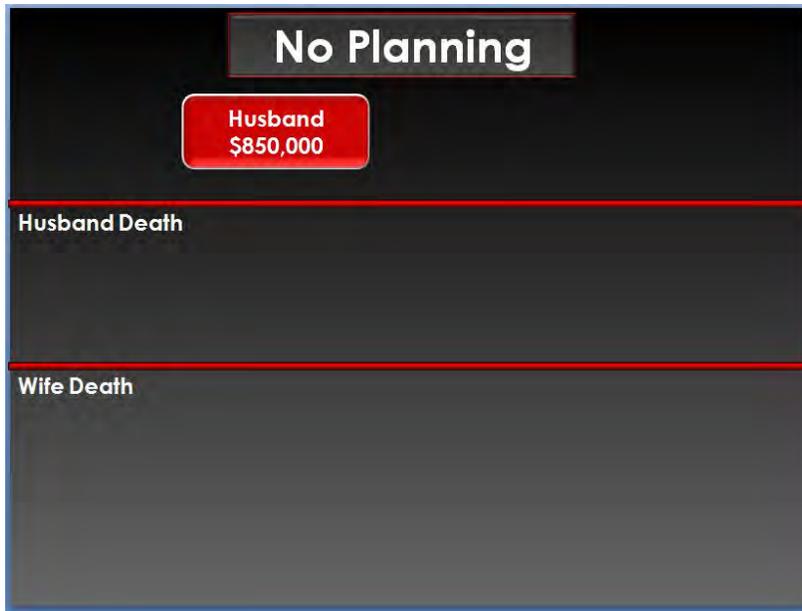
2. Take that rectangle and duplicate it (copy and paste).
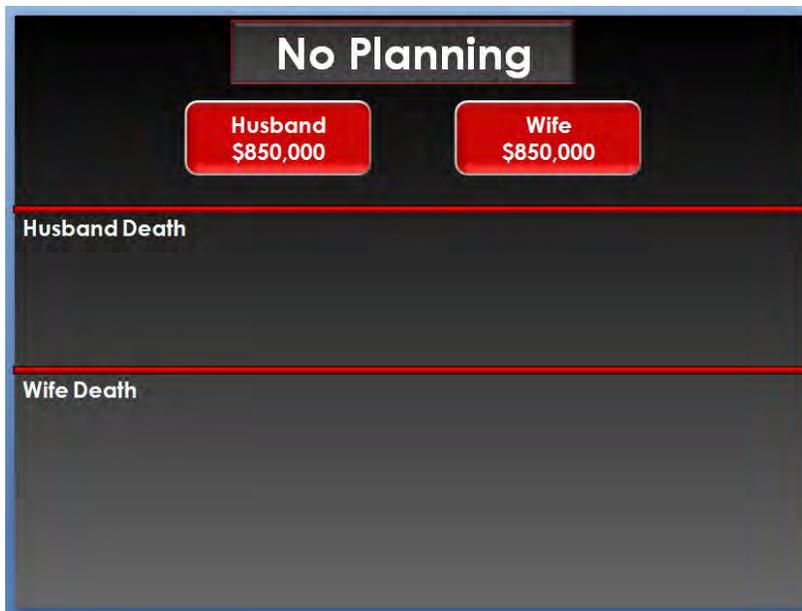
3. Layout all of the objects and information you would like in your flow chart with the duplication of the boxes, lines and other objects. Click inside the objects to modify the text as desired.
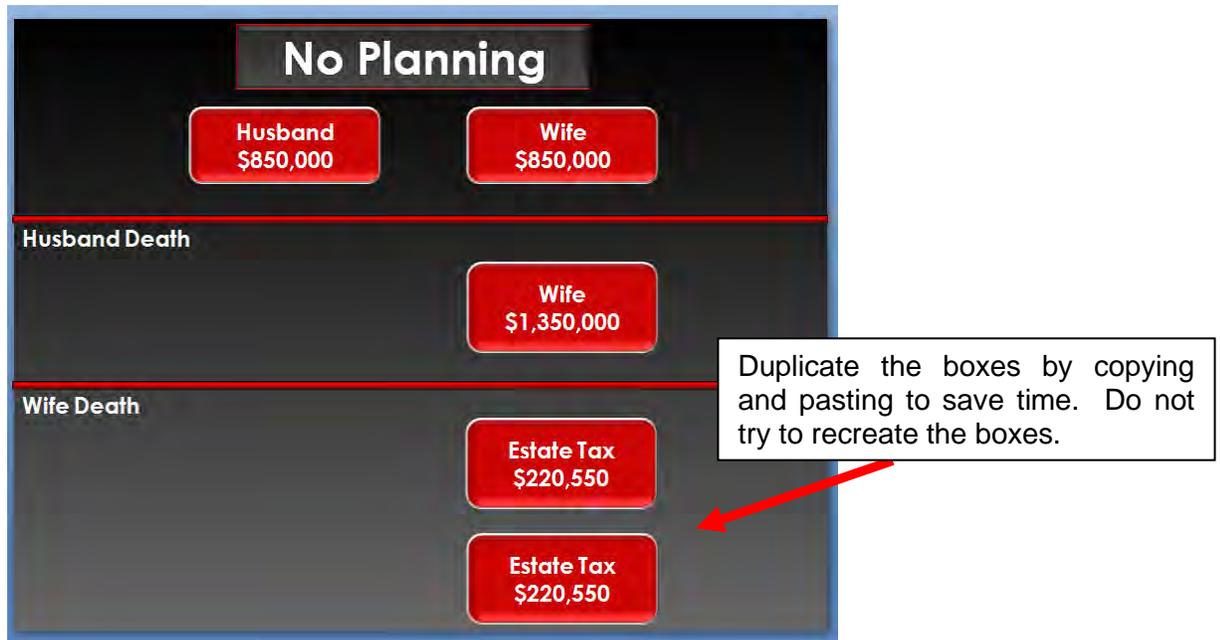
4. Next, create the arrows you would like from the **Insert** ribbon and select the **Shapes** button and find the arrows.

Double-click inside the box and change this text to read "Children get $_____"
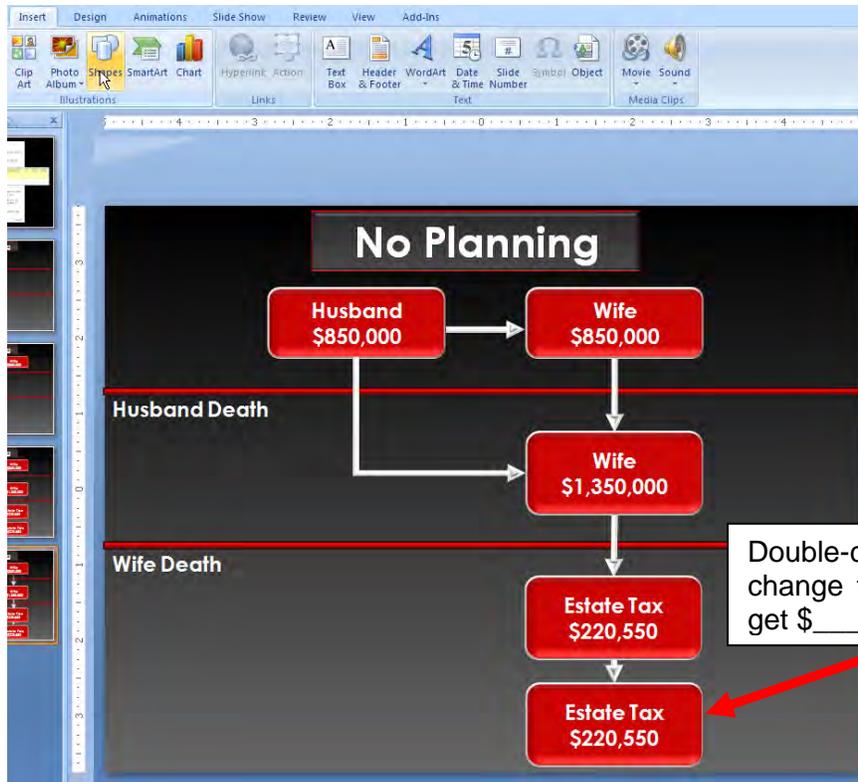
Direction for Animation

1. Go to the **Animation** ribbon and select **Custom Animation**.

2. Select first box (object) and select **Dissolve in** under **Entrance** category.

3. Next select first long arrow, and select **Strips** and then **Left Down** in the **Direction** drop-down menu.

4. Now choose then next object to animate and repeat the process throughout.

TIP: If you animate the first object when you first start the slide, and you duplicate the objects (copy and paste), the animation will duplicate as well and can save you a good bit of time instead of having to animate each object at the end.

EXERCISE 10

Creating a Checklist

1. Create two text boxes, one yes, one no (or whatever the categories you may need for your checklist).

2. Create a border around the text box and select a fill color by right-clicking on the text box and selecting **format shape**.
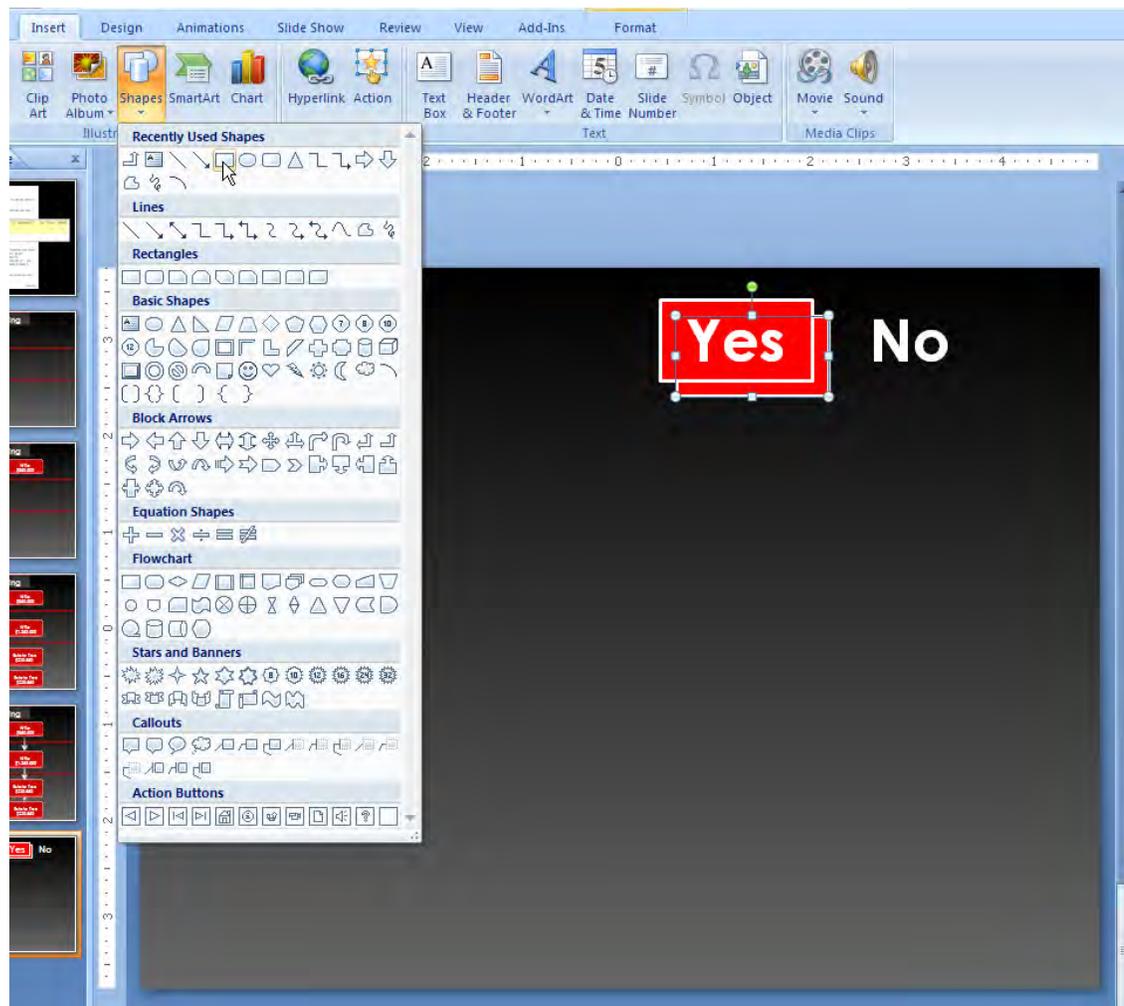
3. Create the categories that will go on the left. For this, create one large text box and type your categories.

4. Create your rows of boxes under the YES, NO by copying the boxes you have already created.

5. After you lay out all of the boxes where you would like them, you can put in the checks that you would like in your checklist. Go to the **Insert** ribbon and select **Clip Art.** If you type "check mark" in the search field, many options will appear. You can select the one you want and place it into the boxes**.**
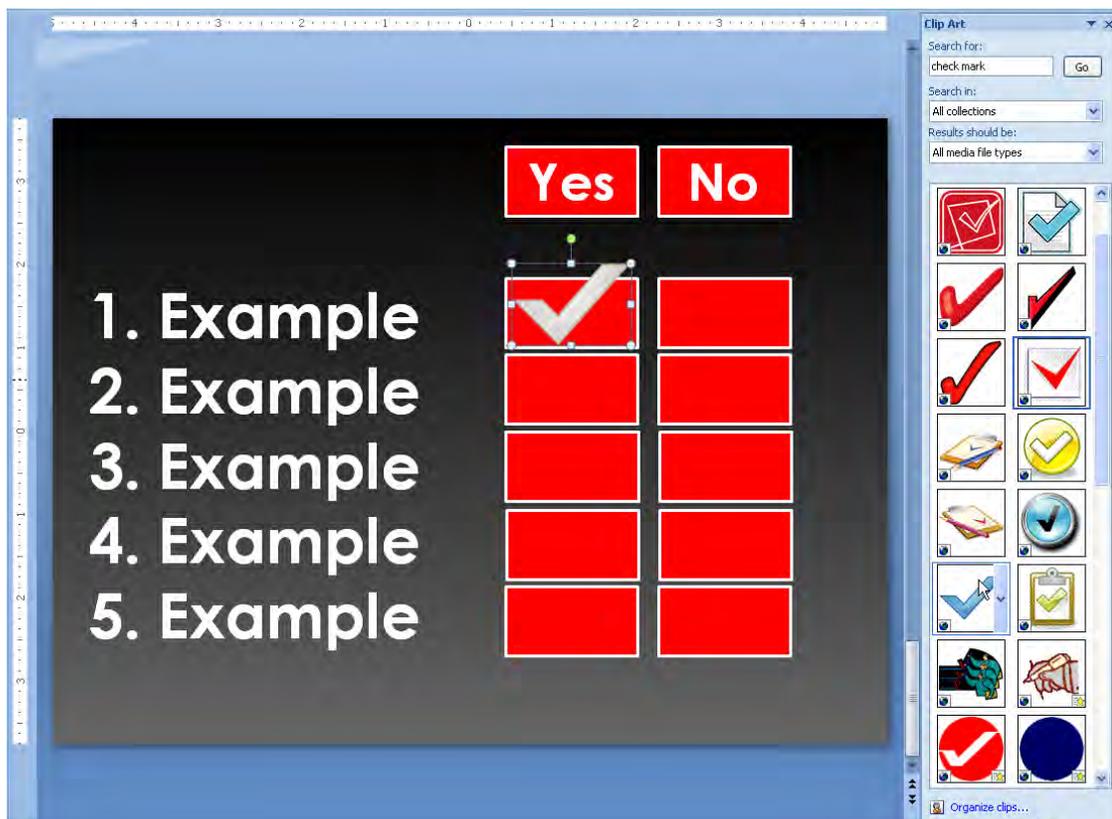
6. Place that check mark anywhere you would like. Simply copy and paste the check in all the other boxes that you would like.

7. After you have all the check marks and the categories in the places you would like them, start custom animating them. Select each category, and select the coinciding check mark and use the wipe left animation.
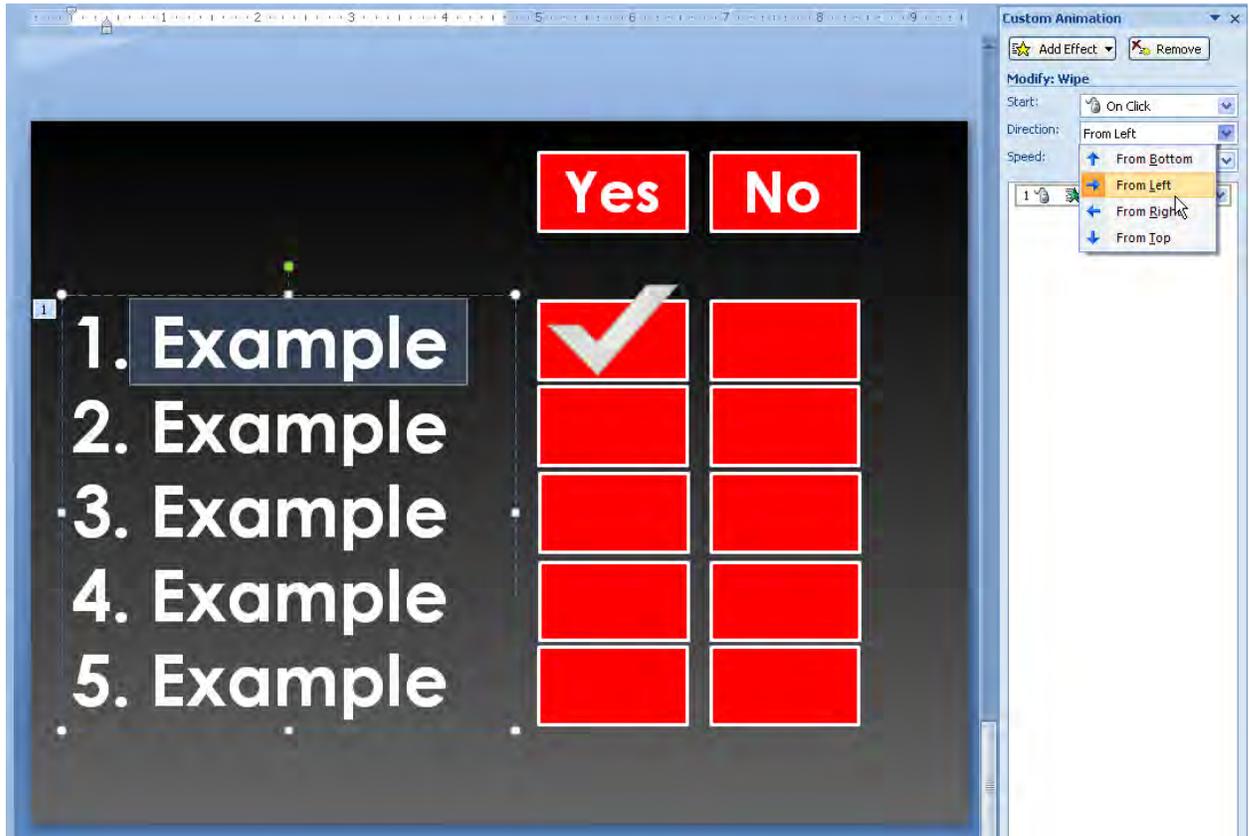
8. Repeat as necessary.

EXERCISE 11

Creating an Animated Family Tree or Organizational Chart

1. When creating this type of chart, always start with the top person in the chart. Type out the name, and insert his/her picture if you have it.

2. Next, drop in the arrows to go to the next people in line. Create the arrows as desired and then select them to apply animation to them. Go to custom animation, select **entrance** and choose **wipe** – then **down**.
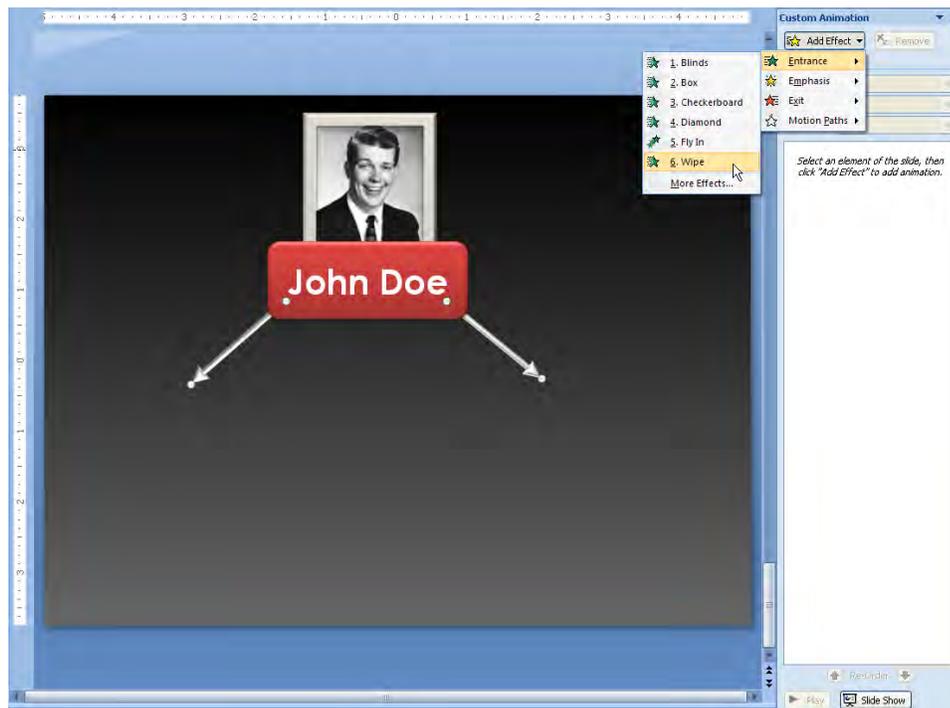
3. Create the next two or however many people you have on the next level, the same way you created the first one. This time, for purposes of this exercise, apply the custom animation on <u>both</u> of the new items. Select both at the same time and select custom animation – **entrance** – **faded zoom**.
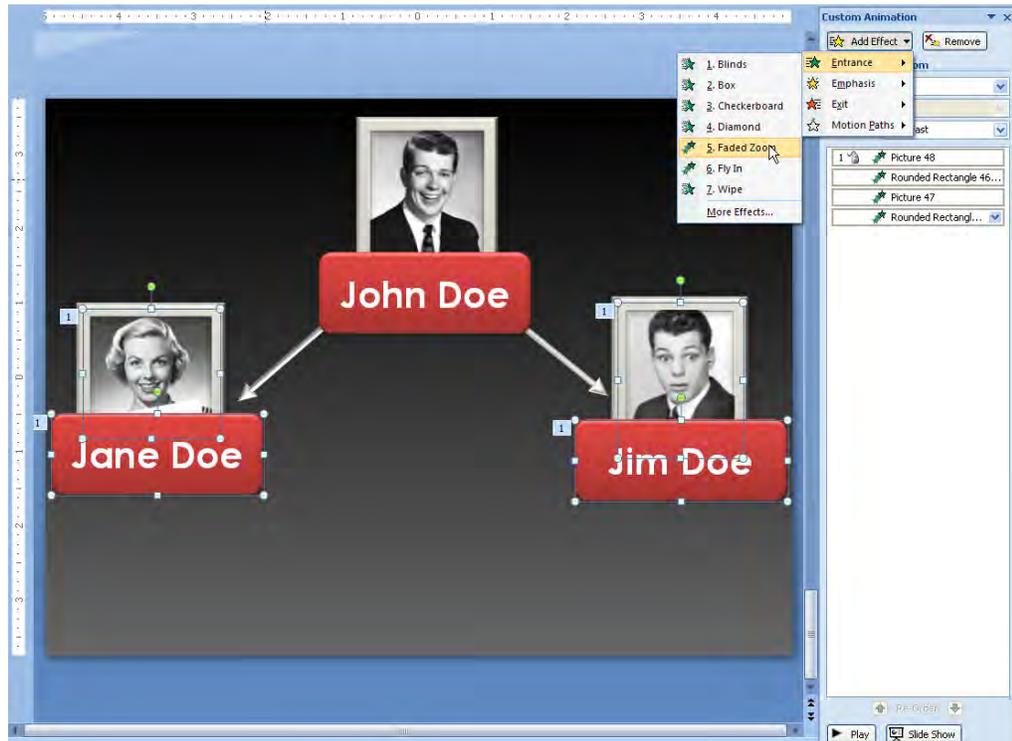
4. Finish it out by creating your final arrows and your final names the same way you did the previous ones.
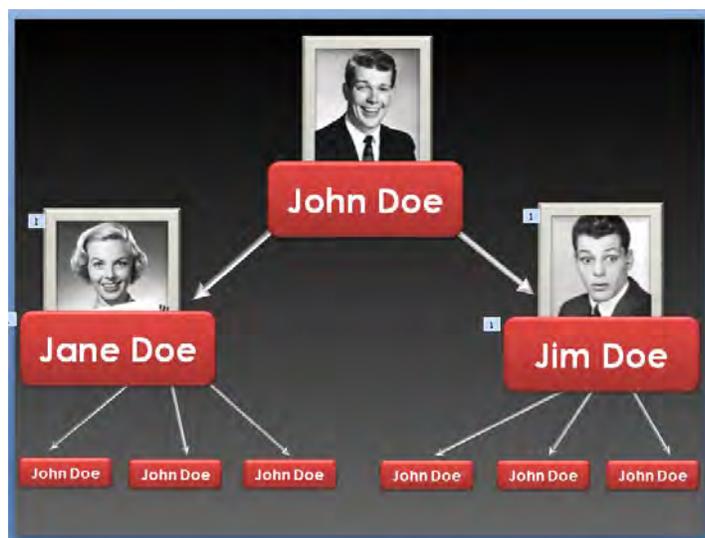
EXERCISE 12

Creating a Timeline

1. To create a timeline, create line across the slide and label the start and end date using text boxes. To create a line, go to the **Insert** ribbon and the **Shapes** button – and select the **line** button, and drag it across the screen.
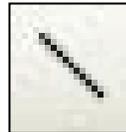
2. Choose the dates that you want to create and type them into each of their own text boxes and place them appropriately on the timeline.

3. If you want to pop up pictures or documents on those dates or even just comments on those dates, you can make a line going from the timeline and connect it to the document, picture or comment.

4. After you do this, group the objects together, so when they pop up they all pop up simultaneously. To group you can select all of the objects by holding down the **Shift** key and left-clicking on the objects. Then right-click on one of the selected objects and select **grouping** and select **group**.
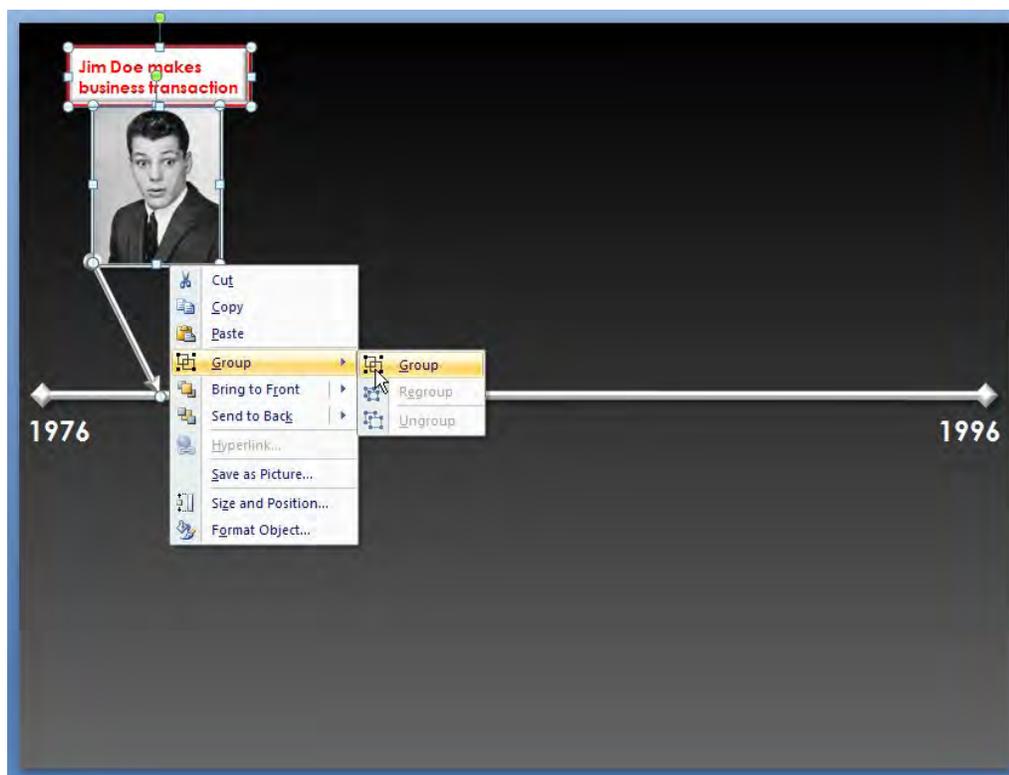
5. Use an animation (entrance - wipe up) on the group.

6. Repeat as necessary.
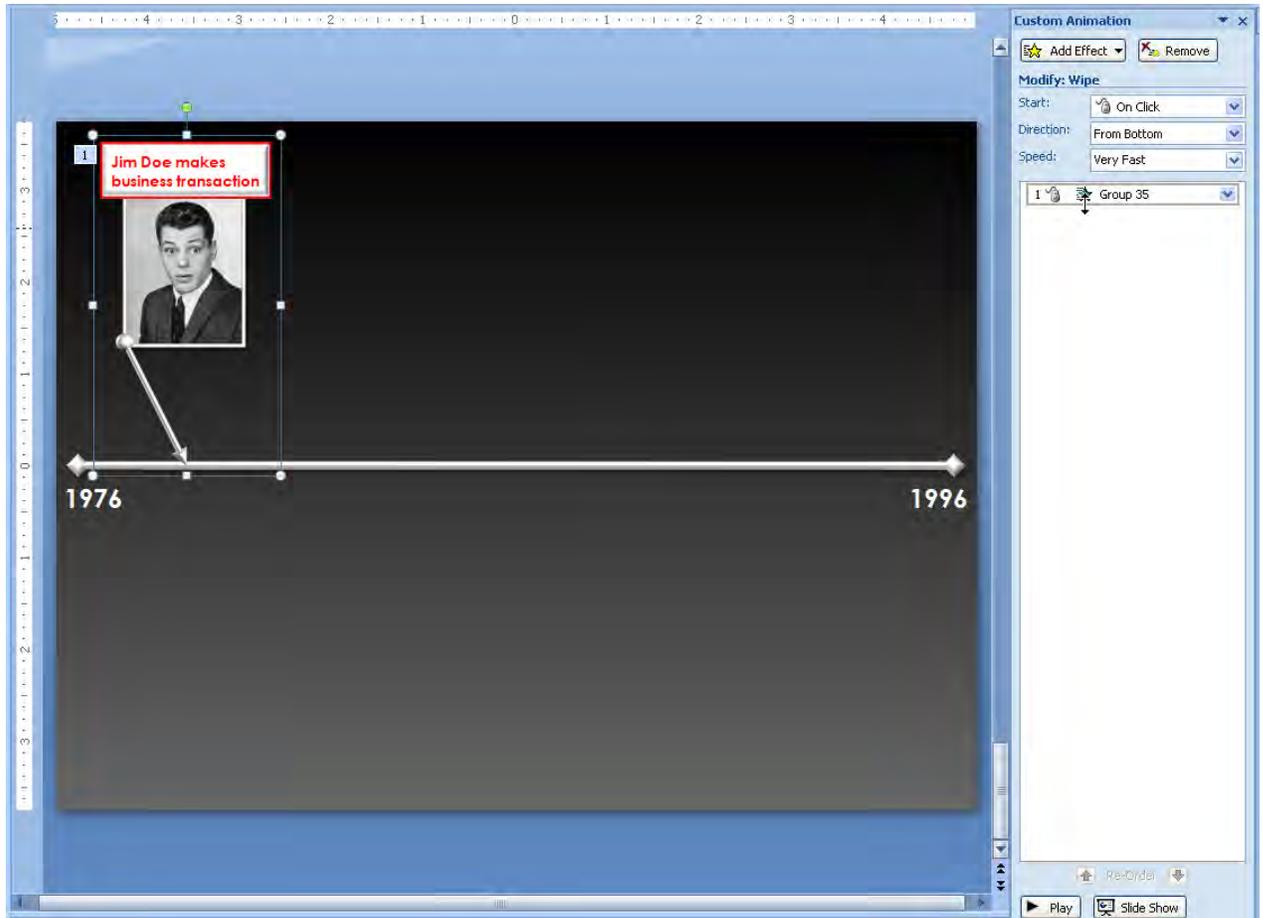
EXERCISE 13

Inserting Spreadsheets and Charts into PowerPoint

There are several ways to insert an Excel spreadsheet into a PowerPoint presentation:

- Create New – Spreadsheet is created from scratch and embedded into the PowerPoint slide and not hyperlinked to an external spreadsheet.

- Create from file – Spreadsheet already exists and then is embedded into the PowerPoint slide and not hyperlinked to the source spreadsheet.

- Create from file and Linked - Spreadsheet already exists and then is embedded as a hyperlink into the PowerPoint slide and is therefore updated whenever updated in either location.

To Create New:

1. From the Insert ribbon, select Object. Select Microsoft Worksheet and Create new and then Ok.
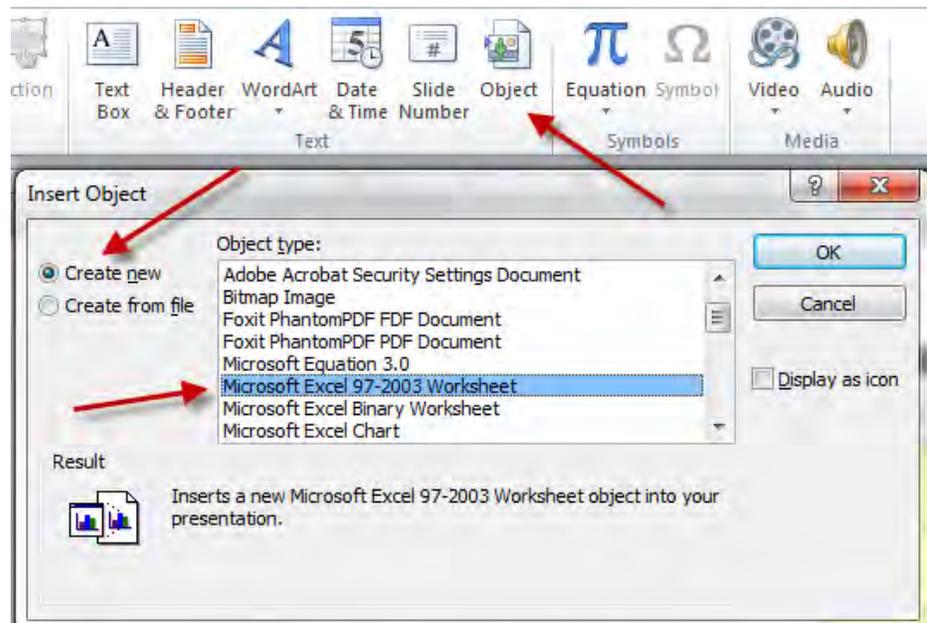
To Create from File:

1. From the Insert ribbon, select Object. Select Microsoft Worksheet and Create from file and then Ok.
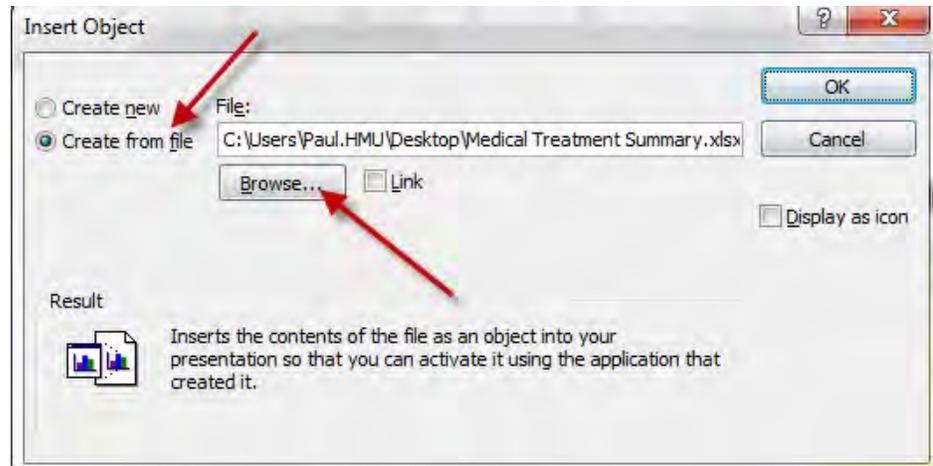
To Create from File and Linked:

1. From the Insert ribbon, select Object. Select Microsoft Worksheet, Create from file, and then check the box labeled Link.
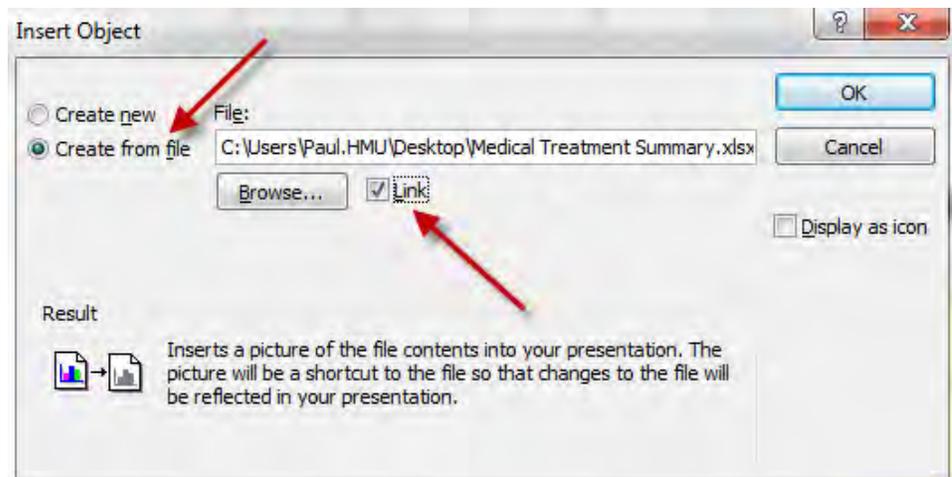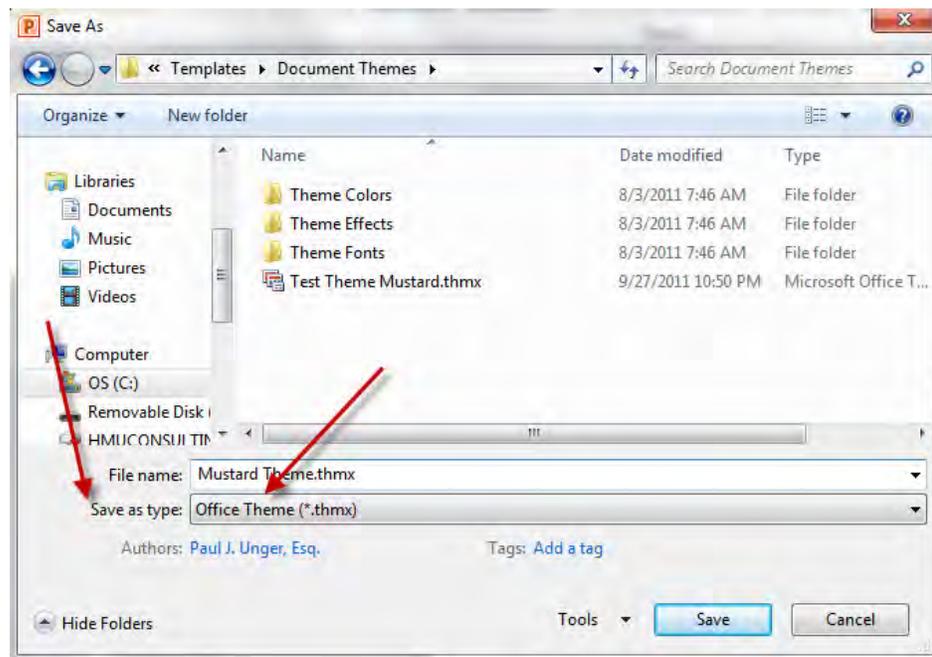
EXERCISE 14

Using Design Templates & Themes

One of the primary benefits of using a Theme (*.thmx) over a template (*.potx) is that you can apply the theme at any stage of building constructing your PowerPoint, and it will automatically update every slide in your presentation. Note, this could be bad also ☐, requiring that you do a lot of tweaking and reformatting.

1. Click on the Design ribbon.
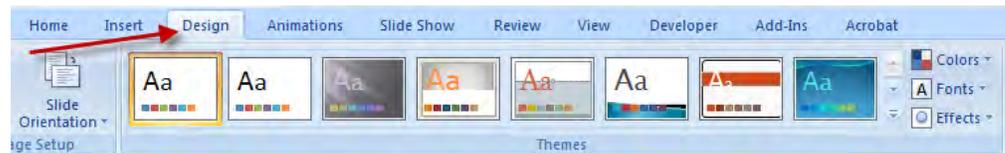
2. From Design Ribbon, select one of the Themes displayed in the ribbon. Note that this will affect every slide in your presentation. It is generally recommended that you apply a Theme when you first create the presentation so that you do not overwrite any custom colors and fonts that you have created for special slides. There are many Themes to select. Below are just a few samples to give you an idea about how they differ.

Saving Your Own Theme

One of the primary benefits of using a Theme (*.thmx) over a template (*.potx) is that you can apply the theme at any stage of building constructing your PowerPoint, and it will automatically update every slide in your presentation.

1. After customizing the colors, design and desired effects, select File > Save As, and then select Office Theme under Save as type.
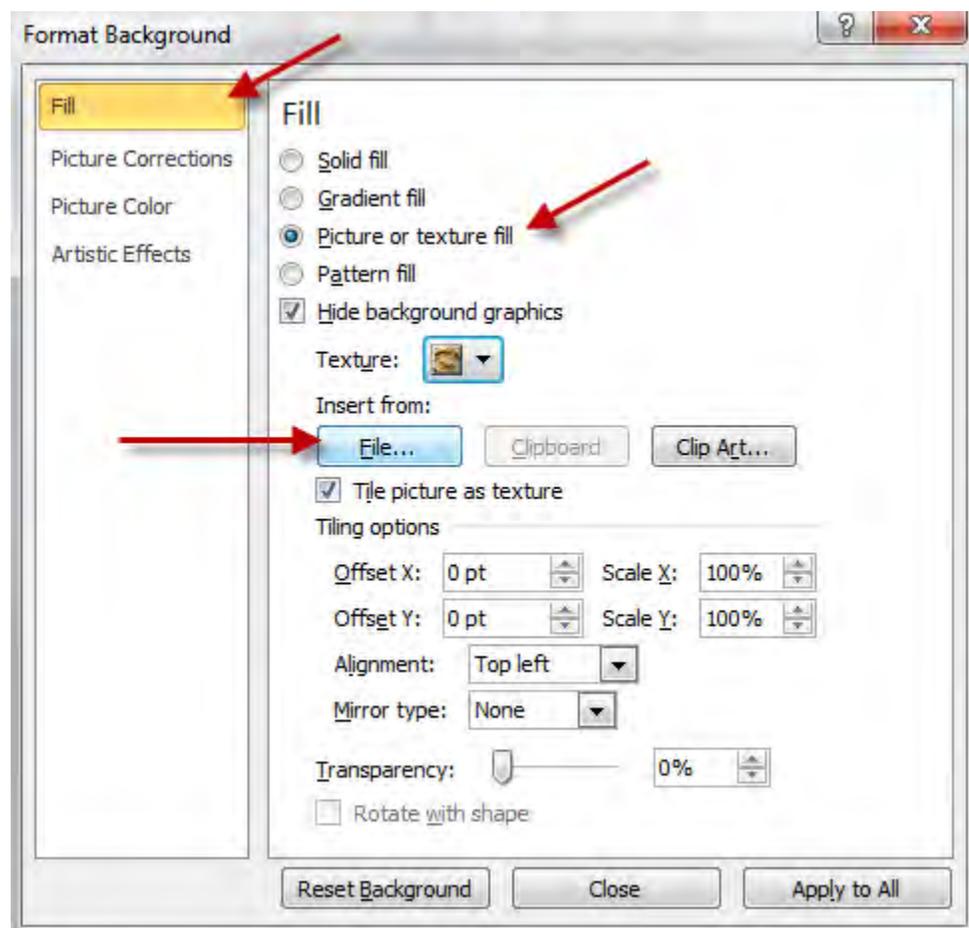
EXERCISE 15

Inserting Image as PowerPoint Backdrop

Sometimes, you may want to insert an image as a background or "backdrop" to a slide. Generally, photos do not make good backdrops, but custom made graphics can be provided to you in the form of a JPG, PNG, or other format.

1. Right-mouse click on an open area within you PowerPoint slide and select **Format Background**. Select **Fill**, then select the radio button **Picture or texture fill** and then **File**.

2. Browse to find the image file and double-click to select it. If you want to use that backdrop for just that one slide, click **Close**. If you want to apply the backdrop to all slides, click **Apply to All.**

EXERCISE 16

Adding "Animation" of Object to Existing Photograph

In this example, we are going to give the illusion that blood is flowing through a vessel. It requires that we first have two images – (1) a picture/graphic of a blood vessel, and (2) a picture/graphic of blood. Both can be obtained through a licensed source of stock photography or graphics.
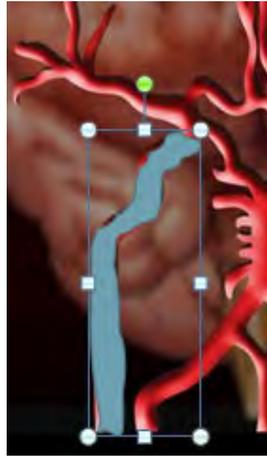
1. Select a plain dark background free of any graphics (black is preferable).

2. From the Insert ribbon, select Picture. Browse to the graphic of the blood vessel and double-click to insert it into the PowerPoint slide:
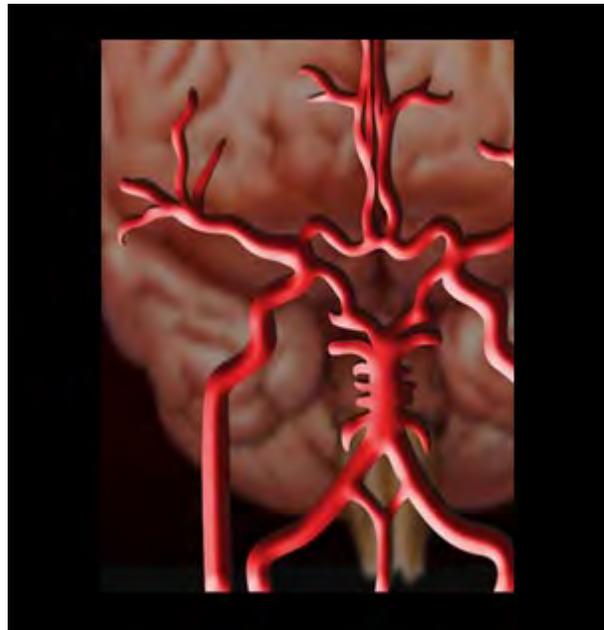
3. From the **Insert** ribbon, select **Shapes**. Select the **Scribble** tool.
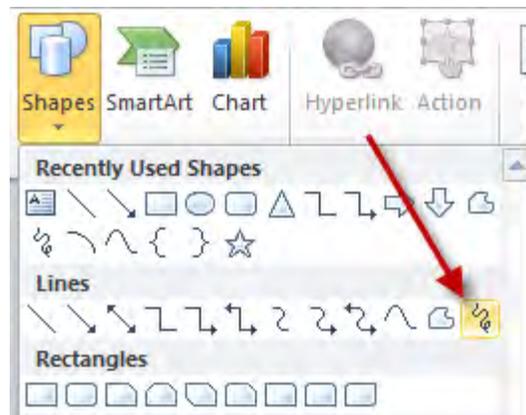
4. Using the pencil pointer, trace the edges of the blood vessel, as seen below.

5. Right-mouse click on the drawn shape and select **Format Shape**. Select **Fill**, and then the radio button **Picture or texture fill** and then **File** to browse to your blood graphic. Double-click to insert the blood as a fill color for the blood vessel. Select **Line Color** and then **No Line**. Select **Close**.
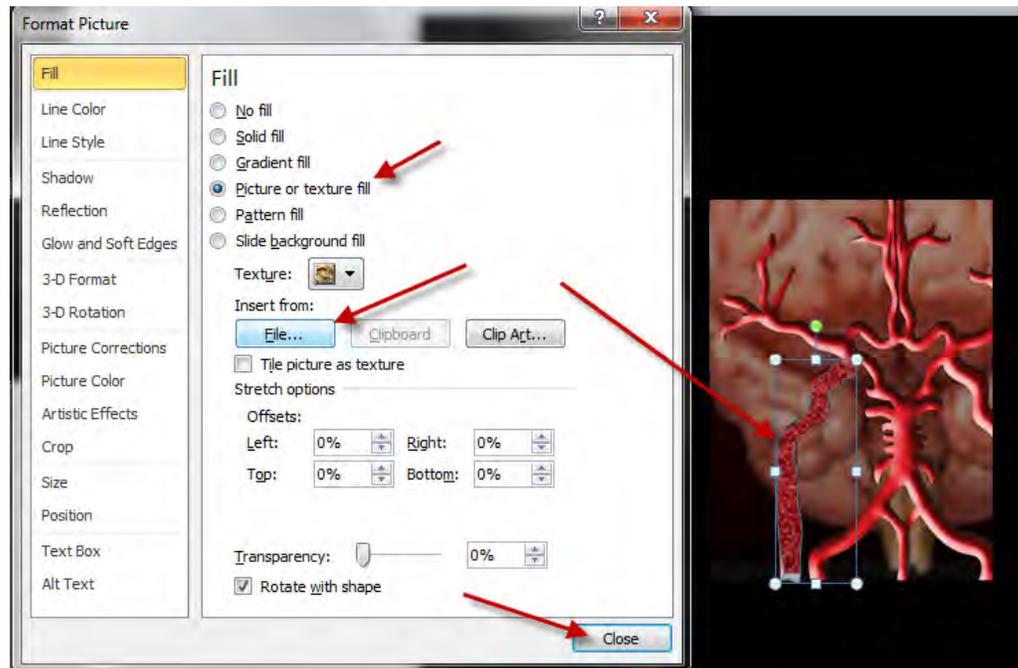
6. Animate the blood by selecting the hand-drawn shape, select Animation and then Custom Animation (Add Animation in PowerPoint 2010), then use the Wipe effect – direction from bottom.

Managing eDiscovery in
Small **Law Offices**

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How Did We Get Into This E-Mess? I'm Supposed To Be Practicing Law!

Our world is digital.

While we still cherish paper in the legal profession, the vast majority of all "printed" documents today are initially created electronically (e.g. email, Microsoft Word, Excel, WordPerfect, etc.). If you're holding a paper document in your hand, it's because someone printed a digital document.

The Federal Rules of Civil Procedure were amended December 1, 2006 to officially recognize that "electronically stored information" (ESI) is equivalent to information stored in paper form.

In their 2005 Notes, the FRCP Advisory Committee stated unequivocally:

> **"Rule 34(a) is amended to confirm that discovery of electronically stored information stands on equal footing with discovery of paper documents."**

The 2006 FRCP amendments dictated changes in how discovery is conducted in civil litigation regarding discussion about how ESI is to be collected, preserved, and produced.

The FRCP Advisory Committee also noted:

> **"Electronically stored information (ESI) has important differences from information recorded on paper:**
>
> **First, ESI is stored in exponentially greater volume than hard-copy documents;**
>
> **ESI is dynamic, rather than static;**
>
> **and ESI may be incomprehensible when separate from the system that created it."**

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What Does The Little "e" Mean?

While the term "e-discovery" or "eDiscovery" sounds intimidating, it is simply the application of traditional discovery practices applied to the contemporary digital world.

Black's Law Dictionary defines discovery as:

> *"...a pre-trial device that can be used by one party to obtain facts and information about the case from the other party in order to assist the party's preparation for trial."*

E-discovery does nothing to change this definition, but the explosion of digital data does require the legal world to employ new and inventive strategies to achieve the same goal as traditional discovery.

Rule 1 of the Federal Rules of Civil Procedure (FRCP) states that all of the rules are to be *"construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding."* In order to secure the just, speedy, and inexpensive determination of law, it is imperative to understand the intricacies of e-discovery so that we can logically apply cost containment where appropriate. In other words, we don't want any expensive surprises or cost runaways.

Even the bench has recognized the importance of raising FRCP 1 to rein in the runaway costs involved with e-discovery. Magistrate Judge Andrew Peck of the Southern District of New York wrote in an October 2011 article for Law.com that *"in my opinion, computer assisted coding should be used in those cases where it will help 'secure the just, speedy, and inexpensive' (Fed. R. Civ. 1) determination of cases in our e-discovery world[1]."*

It's obvious that e-discovery is not that different from the traditional practices of discovery that have evolved in this country's adversarial system of law for decades. The little "e" however, causes us to re-consider some of the outdated approaches to discovery that existed before technology consumed our lives.

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[1] Search, Forward, Law.com, October 1, 2011
(http://www.law.com/jsp/lawtechnologynews/PubArticleLTN.jsp?id=1202516530534)

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What is ESI?

It's important to understand that our definition of a "document" is changing and evolving.

For decades, FRCP 34 was titled **"Producing Documents, and Tangible Things..."** because we all had a solid, conceptual understanding of a "document" - usually defined by the four corners of an 8½" x 11" sheet of paper.

That was fine as long as we created documents by handwriting, or used a typewriter to create documents on physical paper. But then the world started using electronic word processors, and sending email, and texting on our mobile devices. All of these new-fangled electronic forms of communication challenged our concept of a "document" and "tangible things."

Of course you can print out a document created in Microsoft Word, or print out an email message, or even print out web page. But the problem then is that a printout of a digital file is not the original document - it's a printed representation, and now is separated from the metadata and other information that accompanies a digital file.

In many cases, digital files are never meant to be printed - have you ever gone through the nightmare of printing a Microsoft Excel spreadsheet?

*Does this look familiar? Why is printing out an Excel spreadsheet such a nightmare? Because a spreadsheet is **NOT** meant to be printed!*

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In 2006, the title of FRCP 34 was amended to recognize digital files with the phrase "electronically stored information" and now states:

> **"Producing Documents, Electronically Stored Information and Tangible Things..."**

The phrase ***electronically stored information*** (ESI) is now used to encompass the vast variety of digital and electronic files that are discoverable today.

We are comfortable that ESI includes more document-like files such as:

- Microsoft Word documents
- Email messages
- PDF files
- Text files

But we are less agreeable about how to collect, preserve, review, and produce ESI when we discuss information such as:

- Microsoft PowerPoint presentations
- Websites
- Text messages
- Instant messages
- Audio files (.MP3, .WAV)
- YouTube videos
- Skype conversations
- Digital pictures (.JPG, .GIF)
- Facebook feeds
- Twitter feeds
- GPS coordinates
- The Internet of Things data

But the fact is that all of these items (and much more!) fall under the definition of ***"electronically stored information"*** and are required to be collected, preserved, reviewed, and produced in a litigation matter.

In 2006, the drafters of the FRCP amendments could not even envision new forms of ESI such as Twitter, SnapChat, Whatsapp, and the variety of other forms of ESI that have popped up in the last 8-10 years ... and that will continue to appear in the future.

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How Does E-Discovery Differ From Traditional Methods Of Discovery?

One of the biggest differences between electronic discovery and traditional paper discovery is the immense volume we see with electronically stored information. While it takes several store rooms, many boxes, and loads of money to store millions of documents in paper form, those same documents can easily fit on a computer hard drive the size of a paperback novel.

And because it's so easy (and inexpensive) to store information in digital form, people tend to keep so much more than ever before. This means there will be that much more information to cull through during the discovery phase of litigation.

On the other hand, electronic discovery is really just discovery with an "e" in front of it. The addition of the letter "e" does not significantly change the traditional rules of discovery (although it has AMENDED the federal and state rules), it just requires a different strategy to play the game.

The biggest difference that many people point out is that dealing with ESI requires a level of collaboration between litigating parties that is unprecedented. Lawyers are taught from the first day of law school to be adversarial in nature. The thought of collaborating and cooperating with an opposing party is very unsettling to many lawyers, even distasteful to some.

It is becoming apparent, however, that collaborating on logistical issues such as the production of electronically stored information is the only way that the legal profession is going to successfully embrace electronic discovery.

For more information on the need to seek cooperation on e-discovery issues, please see the The Sedona Conference Cooperation Proclamation (http://bit.ly/75xVPA).

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The Federal Rules Were Amended To Address The Problems (Twice!)

2006 Amendments

On December 1, 2006, the Federal Rules of Civil Procedure received some of the most sweeping amendments to bring the Rules into the 21st-century, and apply them to the reality of a world comprised of digital and electronic communication.

Establishing that Electronic Information is Discoverable
One of the primary amendments to the FRCP was the fact that the Advisory Committee wanted to absolutely and definitively establish that electronic information is discoverable and on par with paper discovery.

In Rule 34, they added the phrase "*electronically stored information*" to the title which up until that time, at only referenced "documents" and "tangible things."

The phrase was meant to include any type of information that can be stored electronically, with the foresight that the phrase was broad enough to cover any current type of computer based information, and flexible enough to encompass future changes and technological developments.

Rule 34. Producing Documents, <u>Electronically Stored Information,</u> and Tangible Things, or Entering onto Land, for Inspection and Other Purposes

(a) In General. A party may serve on any other party a request within the scope of Rule 26(b):

> (1) to produce and permit the requesting party or its representative to inspect, ~~and~~ copy<u>, test, or sample</u> the following items in the responding party's possession, custody, or control:

>> (A) any designated documents <u>or electronically stored information</u> — including writings, drawings, graphs, charts, photographs, <u>sound</u> recordings, <u>images</u>, and other <u>data or</u> data compilations <u>—</u> <u>stored in any medium</u> from which information can be obtained ~~[em-dash]~~ ~~translated~~ <u>either directly or, if necessary, after translation by</u> the ~~respondent~~ <u>responding party</u> ~~translates them~~ into <u>a</u> reasonably usable form; or

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Early Attention to Electronic Discovery Issues
Recognizing that early attention to electronic discovery issues was paramount to the success and speedy resolution of issues, and to lower the frustration level of parties dealing with these issues, the Advisory Committee included several points to emphasize the need to discuss these issues early on the litigation process.

First, Rule 26(a)(1)(B) added electronically stored information to the list of items to be included in a party's initial disclosures.

Second, Rule 16(b)(5) adds provisions for the disclosure of discovery of electronically stored information as an item that maybe appropriately included in the court's scheduling order.

And lastly, Rule 26F(f) expands the list of issues that must be discussed as a part of the meet and confer process, and includes a requirement that parties develop a discovery plan that addresses issues relating to the discovery electronically stored information including the form or forms in which it will be produced.

Format of Production
Rule 34(b) address is the format of production of electronically stored information, and permits the requesting party to designate the form or forms in which it wants electronically stored information produced. The rule does not *require* the requesting party to choose a form of production, however, since a party may not have a preference or may not know what form the producing party uses to maintain their electronically stored information.

If a party does not specify a form of production, the responding party must notify the requesting party of the form in which they intend to produce the electronically stored information with the option of producing either 1) in a form in which the information is ordinarily maintained, or 2) in a reasonably usable form.

Collecting and Producing Electronically Stored Information from Sources that are "Not Reasonably Accessible"
Amended Rule 26(b) seeks to provide a balanced, equitable approach to resolve the unique problem presented by electronically stored information which is often located in a variety of locations of varying accessibility.

Rule 26(b)(2)(B) creates a two tiered approach to the production of electronically stored information, making a distinction between that which is reasonably accessible, and that which is not. Under the new rule, a responding party need not produce electronically stored information from sources that it identifies as "not reasonably accessible" because of undue burden or cost. This does not, however, relieve the party from *PRESERVING* the potentially relevant electronically stored information.

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"Safe Harbor"

Because the Advisory Committee was concerned about the potential of relevant electronically stored information being easily deleted or modified, they included the new Rule 37(f) which became known as the "Safe Harbor" provision.

This rule provided that, absent exceptional circumstances, the court may not impose sanctions on a party for failing to provide electronically stored information lost as a result of the routine good faith operation of an electronic information system. It specifically responds to the routine modification, overriding, and deletion of information that attends the normal use of electronic information systems.

The Advisory Committee further observed that such features are "essential to the operation of electronic information systems," and that there is no "no direct counterpart in hardcopy documents."

2015 E-Discovery Amendments to the FRCP

In 2006, the FRCP received major amendments to recognize the role of electronically stored information (ESI) in litigation matters. By adding the phrase "electronically stored information" to Rule 34, the FRCP Advisory Committee explained that it was to "confirm that discovery of electronically stored information stands on equal footing with discovery of paper documents. "

Other changes to accommodate ESI included an emphasis for both parties to discuss the discovery and production of ESI early in the process, including the "form or forms" in which ESI would be produced to the other party. The addition of Rule 37 to the FRCP allowed a Court to impose sanctions on parties who failed to properly preserve ESI for litigation.

Almost 10 years later, the FRCP Advisory Committee examined the impact of the so-called "e-discovery amendments" and have now submitted a handful of significant changes that were approved by Congress on December 1, 2015.

> **First,** in FRCP 1 the Advisory Committee deemed it important to encourage increased cooperation between parties especially when dealing with ESI

> **Second,** the Advisory Committee placed more of a spotlight on the concept of "proportionality" in litigation that involves ESI. This concept already existed in the FRCP but the amendments now includes some specific elements that the Court can consider.

> **Lastly,** FRCP 37 was almost completely re-written to create a more effective and consistent mechanism for Courts to impose sanctions when dealing with the loss of ESI.

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States Love E-Discovery Too!

There has been a lot of attention placed on the "e-discovery amendments" to the Federal Rules of Civil Procedure that it seems like most people have forgotten that the majority of attorneys in the U.S. litigate in state courts. The FRCP amendments have certainly created their place in history, but what use are they to attorneys who practice in state courts?

The good news is that all of the long, long hours of intense discussion and scrutiny that the amendments to the Federal Rules experienced provide a solid foundation for the establishment of similar state rules. This is evident in the Prefatory Note to the "Uniform Rules Relating to the Discovery of Electronically Stored Information" as drafted by the National Conference of Commissioners on Uniform State Law (NCCUSL):

> "... the Drafting Committee decided not to reinvent the wheel. It was the Drafting Committee's judgment that the significant issues relating to the discovery of information in electronic form had been vetted during the Federal Rules amendment process. Accordingly, this draft mirrors the spirit and direction of the recently adopted amendments to the Federal Rules of Civil Procedure. The Drafting Committee has freely adopted, often verbatim, language from both the Federal Rules and comments that it deemed valuable. The rules are modified, where necessary, to accommodate the varying state procedures and are presented in a form that permits their adoption as a discrete set of rules applicable to discovery of electronically stored information."

How To Convince Your Client To Preserve ESI When All They Want To Do Is Delete It

The Rule of Professional Responsibility most directly affecting the issue of preservation of electronic data is Rule 3.4, entitled "Fairness to Opposing Party and Counsel." Rule 3.4(a) states: "[A lawyer shall not] unlawfully obstruct another party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act."

The comment to Rule 3.4 provides further important guidance regarding its purpose and scope:

> **"The procedure of the adversary system contemplates that the evidence in a case is to be marshaled competitively by the contending parties. Fair competition in the adversary system is secured by prohibitions against destruction or concealment of evidence, improperly influencing witnesses, obstructive tactics in discovery procedure, and the like.**
>
> **Documents and other items of evidence are often essential to establish a claim or defense. Subject to evidentiary privileges, the right of an opposing party, including the government, to obtain evidence through discovery or subpoena is an important procedure right. The exercise of that right can be frustrated if the relevant material is altered, concealed or destroyed. Applicable law in many jurisdictions makes it an offense to destroy material for purposes of impairing its availability in a pending procedure or one whose commencement can be foreseen … Paragraph (a) [of Rule 3.4] applies to evidentiary material generally, including computerized information."**

The annotation to Rule 3.4(a) points out that while a violation of the rule may expose a lawyer to professional discipline, "it is normally the judge hearing the matter who initially takes the corrective action through litigation sanctions, such as … exclusion of evidence, and the payment of fines, costs, and attorneys' fees." While the ethics rule is a starting point, much of what is important regarding the ethical issues related to the duty to preserve electronic data is found in the case law discussing spoliation of evidence, the duty to preserve evidence, the sanctions available under the discovery rules, as well as the inherent authority of the court.

The duty to preserve relevant information is actually not specifically defined in the Federal Rules of Civil Procedure – it's born out of case law. The duty usually encircles the concept of a "litigation hold." Three concerns around the litigation hold include:

1. When the duty arises – the "trigger"

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2. What must be preserved – the "scope"

3. How should it be preserved – the "process"

The "Trigger"

The duty to preserve evidence is triggered when litigation or an investigation begins, or when litigation or an investigation can be "reasonably anticipated." In *Byrnie v. Cromwell,* 243 F. 3d 93 (2d Cir. 2001), the obligation to retain arises when a "party has notice that evidence is relevant to litigation … but also on occasion in other circumstances, as for example, when the party should have known that the evidence may be relevant to future litigation."

For an example of preservation obligations being triggered prior to the commencement of litigation, read a good summary of a sanction ruling in *Voom HD Holdings LLC v. EchoStar Satellite LLC.*

The "Scope"

"Corporations are not obligation, upon recognizing the threat of litigation, to preserve every shred of paper, every e-mail or electronic document, and every backup tape. Indeed, such a rule would cripple large corporations." *Zubulake v. UBS Warburg LLC,* 220 F.R.D. 212, 217 (S.D.N.Y. 2003)

Nevertheless, "[w]hile a litigant is under no duty to keep or retain every document in its possession, … it is under a duty to preserve what it knows, or reasonably should know, is relevant in the action, is reasonably calculated to lead to the discovery of admissible evidence, is reasonably likely to be requested during discovery, and/or is the subject of a pending discovery request." *Wm. T. Thompson Co. v. General Nutrition Corp. Inc.,* 593 F.Supp. 1443, 1455 (C.D. Cal. 1984)

"[A]nyone who anticipates being a party or is a party to a lawsuit must not destroy unique, relevant evidence that might be useful to an adversary." *Zubulake v. UBS Warburg LLC,* 220 F.R.D. 212, 217 (S.D.N.Y. 2003).

In its "*Commentary on Legal Holds: The Trigger & The Process,*" highly respected e-discovery think tank The Sedona Conference says factors that dictate the scope of preservation include "the nature of the issues raised in the matter, the accessibility of the information, and the relative burdens and costs of the preservation effort." Generally, courts expect parties to apply a standard of "reasonableness" and "proportionality" to their preservation demands and efforts, recognizing that the costs and burdens associated with preserving ESI should always be in balance with the value of the dispute.

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The "Process"

A party must take reasonable steps to identify and preserve relevant information as soon as practicable. Judges expect a good faith, reasonable process that is defensible and documented.

The "Zubulake" Duty was outlined in *Zubulake v. UBS Warburg, LLC,* 229 F.R.D. 422 (S.D.N.Y. 2004):

1. Issue a "litigation hold" at outset and periodically reissue"

2. Communicate directly with the "key players"

3. Instruct all employees to produce copies of relevant electronic files

4. Make sure that all ... media which the party is required to retain is identified and stored in a safe place.

Though preservation letters are not a formal component of civil discovery procedure, they are very common. In his popular paper "The Perfect Preservation Letter," (http://www.craigball.com/perfect%20preservation%20letter.pdf) e-discovery attorney and expert Craig Ball explains that preservation letters are not just about educating or reminding opponents out of professional courtesy. "The preservation letter can establish such awareness, bolstering a claim that the party destroying evidence knew of its discoverability and recklessly or intentionally disregarded it," Ball writes.

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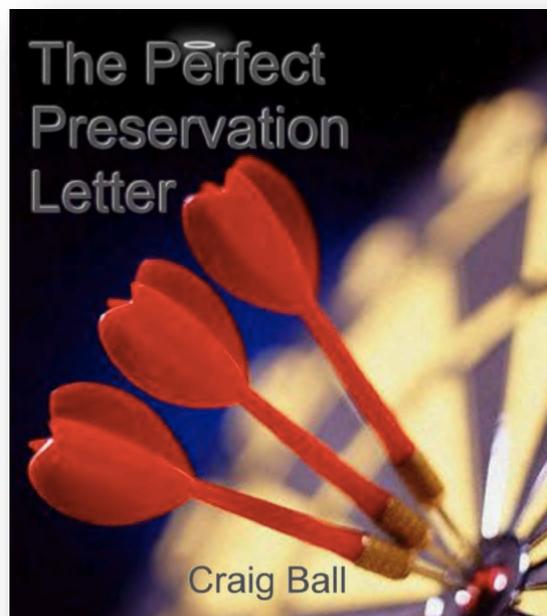
How To Avoid Being Cyber-Bullied By The Other Side In E-Discovery

Agree to Disagree – Cooperation in E-Discovery

The concept of "cooperation" among litigating parties has become a clarion call from the bench as judges have grown increasingly frustrated with the delays and unnecessary hand-wringing surrounding the procedural fights around e-discovery.

In July 2008, the Sedona Conference issued the "Cooperation Proclamation" which sought the "open and forthright sharing of information by all parties." It stated:

> **"Cooperation does not conflict with the advancement of their clients' interests – it enhances it. Only when lawyers confuse advocacy with adversarial conduct are these twin duties in conflict."**

In discussion the "Cooperation Proclamation," Ken Withers, the Director of Judicial Education and Content for the Sedona Conference, stated:

> **"If the goal of discovery is to uncover facts to be used during settlement conferences or at trial, why not cooperate in the discovery process, and utilize advocacy and persuasion skills to argue the interpretation of the facts and the application of the facts to the law?"**

In *Mancia v. Mayflower Textile Services Co.,* 253 F.R.D. 354 (2008), Judge Grimm cited the Sedona Conference Cooperation Proclamation and stated "there is nothing inherent in [the adversary system] that precludes cooperation between the parties and their attorneys during the litigation process to achieve orderly and cost effective discovery."

What information get from your client to be prepared to share with the other side…

If cooperation is the goal for civil litigation today, then there is specific information that is necessary to glean from your client before entering into fruitful discussions with the opposing party.

First, you should have a good general understanding of how your client accesses and manages their email, since email will typically be the primary source of potentially relevant electronically stored information. Does your client use Gmail? Does your client use the Microsoft Outlook software to connect to an Exchange server? Is your client's email hosted by their Internet service provider?

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Next, you need to have a good general understanding of how your client accesses and manages files stored on a network share drive at the organization. Do they have access to departmental file shares? Does each individual have access to a personal storage area on network servers?

Lastly, you need to have a good general understanding of how your client employees manages and stores files on their personal computers. How much information do they store on their local hard drive vs. the network file shares? Do they use a cloud-based storage service such as Box or Dropbox to sync files locally to their computer?

Having this information will help to ensure that your discussions with the opposing party will be fruitful and frankly provide you with a sense of confidence when you enter the preliminary discussions. Since you expect the opposing party to provide you with this type of information, it makes sense that you enter the discussions with the same information from your clients.

What questions to ask the opposing party...

Here are a few questions that you should be prepared to pose to the opposing party in your preliminary discussions regarding the collection, review, and production of electronically stored information:

- How do you plan to review documents we produce to you? Will you be using a document review platform?

    - *The answer to this question will, to some extent, help you determine in what "form or forms" you will need to produce the electronically stored information that you collect and review.*

- What types of electronically stored information do you plan to produce? Email? Microsoft Word documents? PDF files? Audio or video? Invoices? Medical records? Database exports? Social media feeds?

    - *The answer to this question will enable you to specify the "form or forms" in which electronically stored information will be produced to you as you have the right to do under the Federal Rules.*

- Determine how you will direct the opposing party to produce electronically stored information to you – native electronic files? (*my recommendation)* Load files for review platforms? Paper? (*not recommended!*)

Forging Your Way Through Forensics

Not every case requires the use of computer forensics professionals, but when computer systems and data must be preserved for litigation purposes, it's imperative to employ professional help as soon as possible.

Computer forensics can be scary – professional examiners can literally scrape information from your computer about e-mails you've sent, websites you've visited, and old documents you thought you deleted. This session will inform you what computer forensics professionals can do for you and your client, and also help you obtain the electronic evidence you need from the other side.

Defining Computer Forensics

Computer forensics can be defined broadly or narrowly. But it is generally accepted that the science of computer forensics involves the identification, preservation, examination, and interpretation of magnetically-stored information (e.g. computer hard drives).

The identification phase does involve some technology, but it really begins at the physical level. Before you retain the services of a computer forensics professional, it's important to already have a good idea of which computers and/or external hard drives need to be copied or "imaged." The computer forensics professional isn't going to be able to help identify the key players in the litigation, but once they hear the facts of the matter, they can usually make some important suggestions as to where to look on the computer to find relevant electronic data.

Preservation is the most important job of a computer forensics professional. The main reason one calls a computer forensics professional is to ensure that sensitive and relevant data on a computer is protected against accidental or unauthorized deletion (spoliation). Preserving the electronic data for future examination is the ultimate goal of every computer forensics project.

"The obligation to preserve evidence arises when the party has notice that the evidence is relevant to litigation or when a party should have known that the evidence may be relevant to future litigation." *Zubulake v. UBS Warburg*, (Zubulake IV) 220 F.R.D. 212 (S.D.N.Y. 2003) The role of a computer forensics professional helps an attorney appropriately accomplish the duty to preserve relevant evidence when it is located on individual computers. While the Zubulake IV opinion states that a party is obviously not required to preserve "every shred of paper or e-mail," they must actively preserve important, relevant data that may easily be found "hiding" in computers. While it may not be easy for a non-technical person to find "hidden" information in a computer, a skilled computer forensics professional can quickly and easily discover many details that are not readily apparent to a normal computer user.

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Examination and interpretation are important in communicating what is found on a computer to attorneys. A computer forensics professional will examine the data collected from a computer with the goal of retracing the steps of the computer user. Craig Ball (www.craigball.com) is an attorney and a well-respected certified computer forensic examiner, and he calls this part of the job "telling the story" of what happened on the computer.

Craig is in a unique position because he is an attorney himself, and therefore is able to competently interpret his findings to the attorneys that hire him. It takes a special skill to describe and explain how Web cookies, for example, work and operate on a computer that surfs the Web. It's important to find a computer forensics professional that can comfortably translate technical terms and scenarios into an easily understood story – not only so that you understand it, but so you are confident they can describe their findings to a judge or jury.

The science of computer forensics has been abundantly deployed in the criminal world, and it is steadily becoming the norm in civil litigation matters. Law enforcement officials have long used computer forensics to track down criminals that have used the Internet to lure children and other victims into compromising situations. A good example of this is a story found in Popular Mechanics magazine entitled "Computer Forensics: The New Fingerprinting" (online at http://www.popularmechanics.com/technology/military_law/2672751.html). In that story, FBI computer forensic examiners tracked down a kidnapper who had communicated with a 13-year old girl through chat rooms over the Internet. The examiners found clues to the kidnapper's identity by combing through files left on the girl's computer.

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In civil litigation, computer forensics professionals are routinely called upon to ensure that electronic evidence is pristinely preserved, and then to retrieve relevant evidence from the images of the hard drives. Both parties to a civil litigation have to understand, however, that they are must engage in several balancing acts in regard to the hard drive images. For example, taking the hard drive out of a computer renders the computer useless, and so it can be a crippling situation for someone's business to image the hard drive during working hours. Additionally, many computer hard drives will contain a vast mix of both personal and business-related information. While an opposing party may have a right to see the business-related data, precautions must be taken so that non-relevant personal information is adequately protected.

Computer Forensics Concepts and Terminology

The first and most important thing to remember is to NOT TOUCH a computer that you have determined must be imaged to preserve the data it holds. Electronic data is very volatile and although it can remain in a fixed state for a long time (i.e. on a backup tape, hard drive, etc.), it is possible to change many files just by turning on the computer. It's always tempting to turn on a computer just to get a "quick peek" at the contents; but in so doing, relevant information can be erased or modified. The best thing to do is keep the computer turned off and physically secured, and call a computer forensics professional as soon as possible.

An experienced computer forensics professional will start a project by observing the physical environment in which the computer is located. Many people will write usernames and passwords on "Post-It" notes and simply stick them to their computer monitor. This can be useful if a computer forensic examiner needs to access hidden or encrypted data on the machine. Depending upon the situation, it may be a good idea to photograph the environment before the computer is moved around to gain access to the hard drive.

Next, a computer forensics professional must get direct access to the computer's hard drive to make the forensic image. While this can sometimes be done without disturbing the computer very much, it normally requires opening the computer to unplug and take out the hard drive. This is easier to do on a desktop computer, and can sometimes get a little tricky on a laptop.

Once the hard drive is extracted from the computer, it gets hooked up to a "write-blocker" which prevents any information on the hard drive from being modified or "written to." On the other end, the write-blocker is usually hooked up to a laptop computer that is running software to create the compressed forensic image of the hard drive. One of the most popular forensic software packages is EnCase Forensic from Guidance Software (www.guidancesoftware.com).

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Software like EnCase compresses the information stored on the hard drive (makes it take up less space); creates and copies the image on to another storage device (i.e. an external hard drive); and then provides a nice interface for scrolling through the thousands of files copied into the disk image. It sounds simple enough, but it takes many hours of training and experience to make sure the whole procedure is performed perfectly. Software like EnCase allows computer forensics professionals to run searches and create reports on what is found on the hard drive.

A skilled computer forensics professional understands more than just how to push a button on a software package – they have studied the intricate details of how data is saved, organized, and managed on a computer. Computer hard drives allocate space for data based on very logical rules. It's important to understand the intricacies of how the technology works in order to know where to look for deleted data - which usually turns out to be where the juiciest and most revealing information is found. Terms like "slack space" and "unallocated space" are regularly mentioned in regard to the "hidden" areas of the hard drive where computer forensics professionals commonly find old, deleted information.

Computer forensics professional are also well-informed on how specific software applications store data on a hard drive. For example, web browser will store "temporary files" and "cookies" on the hard drive as part of their routine operation. Also, applications like Microsoft Outlook store e-mail messages and calendar information in a specific file format that is not easily readable outside of the Outlook environment. Lastly, computer forensic examiners know how to view the "metadata" of a file so they can tell you specifically when the file was last opened and modified.

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How to Find a Computer Forensics Professional

I hope by now it's obvious why a computer forensics project must be handled by a trained, experienced professional. Many IT professionals are very qualified to do a simple "copy" of a hard drive, but they are not trained in creating forensically sound "images" of hard drives that will properly preserve the data for litigation purposes.

Finding a competent computer forensic examiner is not really that much different from finding any other expert. The best place to start is by asking your peers for recommendations on computer forensics professionals that they have used in the past. This is by far the best way to find and retain a computer forensics professional because you will be able to get a feel for the work they do and their experience from talking with your peer.

There are several professional organizations that you can contact for recommendations. One of the most notable include the International High Technology Crime Investigation Association (www.htcia.org).

Before you retain a computer forensics professional, you certainly need to inquire about their qualifications. Obviously, a lot of this can be accomplished by reading over their resume or C.V. You need to be sure they are formally trained for their position and have received the appropriate certifications for the work they perform. Common certifications include Certified Computer Examiner (CCE) and Certified Forensic Computer Examiner (CFCE). Just having a certification, however, may not be enough. They should have a solid amount of experience to accompany their certification. Above all, you need to personally converse with the computer forensics professional so that you feel comfortable with their style and communication ability. The worst thing you can do is hire a computer forensics professional that constantly uses confusing technical jargon without adequate explanations. This will frustrate you and confuse a judge or jury.

Further Reading: "Computer Forensics for Lawyers Who Can't Set a Digital Clock," (http://www.craigball.com/CF.pdf) by Craig Ball who is an attorney and a certified computer forensic examiner.

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Data Collections Without Data Disasters

When it comes to electronic discovery, the best defense is a good offense.

One of the most expensive phases in an e-discovery project is the collection of e-mail and electronic documents. It is important right off the bat to start learning where your client stores their e-mail and electronic documents. For example, if they are a company it's a safe assumption that they have an e-mail server that handles the distribution of company e-mail, although this is not always the case – many companies today have moved their email servers to "the cloud" on services such as Microsoft Office 365 or G Suite (from Google).

Collecting electronic evidence for the purpose of producing it to the other side requires the input of both legal professionals (i.e. what is relevant from a legal standpoint) and technology professionals (i.e. where is e-mail stored and how can it be exported off the system).

Preservation of electronic data doesn't always mean it must be exported off a computer server. Often, employees or clients will store information on the desktop and laptop computers that they use every day. It is not recommended that these individuals preserve the e-mail or documents themselves because there is a lot of hidden information contained in computer files (often called "metadata") that will be fatally disturbed if the preservation is not done in a forensically sound manner.

This is where computer forensics professionals are necessary. Such professionals can make a bit-by-bit copy of a computer's hard drive (usually called an "image") that will preserve ALL of the information contained in that hard drive without making any changes to the underlying data. This practice is common and is admissible in court provided the hard drive image is made by an experienced forensics professional.

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A computer forensics professional uses an exhaustive approach to recover, convert, review, and present the findings of any forensics investigation. They investigate media types such as PCs, laptops, cell phones, digital cameras, servers, tape backups, thumb drives, GPS, and PDAs. They have the ability to track computer usage history, retrieve deleted emails, hidden files, and documents. They can even create a timeline of events, determine malicious intent and violation of agreements. The most important services that a computer forensics professional can do is provide expert testimony.

The main lesson to take away in the preservation and collection phase is that ignorance can be expensive. You will be much better served in being proactive on talking with your clients about where they store electronic information and having a better idea of their individual practices. Indeed, the Committee Notes to the FRCP amendments recognize the fact that attorneys today must have better knowledge of where and how their clients stored information.

Is Social Media the New E-mail?

In the 1990's when e-mail was just beginning to become a de facto method of communication for the business world, lawyers and litigators were just beginning to understand the importance of collecting those messages for litigation. It seemed like people would say ANYTHING in an e-mail message which meant it was a juicy source of some of the most damaging (or beneficial) information related to a litigation matter or investigation.

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The problem was that lawyers had a devil of a time learning how to adequately collect and process e-mail in those early days. Fortunately, we've come a long way in the last couple of decades and today, e-mail collection is one of the easiest sources of electronically stored information (ESI) to collect today. In fact, services such as Microsoft Office 365 and Google Apps have begun to incorporate e-mail collection tools right into their services.

But with the internet and social media, we see some of the same types of challenges arising for litigators. One reason is because there are simply so many forms of social media today and they seem to be changing almost every day. Today's it's Twitter and Facebook, but tomorrow it's Snapchat and Instagram. Social media services have their own unique formats and metadata that must be preserved. And people use social media from a variety of different mobile devices as well as computers.

With e-mail, corporations and lawyers could plead ignorance because it was a new world part of the "digital revolution" that everyone was getting used to. But today, since we've already learned so many lessons from collecting and reviewing e-mail messages, we don't have many excuses for staying behind the eight ball. It's important for every lawyers (not just litigators) to learn the basics about collecting and producing social media.

Some Basics on Collecting and Preserving Social Media

Everyone, including lawyers, is using social media today to record their thoughts, actions, feelings, whereabouts, and much more. This provides a rich and sumptuous insight into the daily history of an individual. If you're not considering this information in your litigation matters, you're missing some of the most salient information relevant to a matter.

No one would ethically suggest that you "friend" an opposing party under false pretenses, but a public profile is open for the world to see and completely fair game. It's no different than Googling your adversary and opposing party.

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We've made valiant efforts to collect the web-centric and social media evidence using primal, inadequate tools such as the "print screen" command in an attempt to snap a picture of the content in our web browser. We've printed this to paper, thus converting a dynamic, living web page into a degraded version of the original (the equivalent of producing a toy replica handgun in place of the actual murder weapon).

We've also converted webpages to PDF. This is similar to printing a webpage to paper, except that some PDF software captures dynamic pictures and active content. At least the information stays in digital format and keeps the hyperlinks active. Many of these PDF conversions will also include at least a date and time stamp on the page that someone can testify to.

Lastly, there have been "web crawlers" that can suck down webpages to your local computer several links deep. This process allows you to surf the page from a local machine and works just fine in some scenarios for taking a snapshot of a website and preserving a webpage.

The ideal method is to utilize the application programming interface (API) offered by social media publishers so that information can be collected directly from the platform. This allows the product to capture all of the user-facing data along with the metadata straight from the publisher. Bonus if the product can preserve the information for searching, reporting, and exporting.

One excellent tool to consider is Page Vault located at www.page-vault.com. The company offers an "on-demand" service for properly collecting and preserving web content and social media feeds.

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E-Discovery Tools For Mere Mortal Lawyers

For many years, the world of litigation support and e-discovery was ruled by comprehensive systems such as Summation iBlaze and Concordance. These applications boast histories going back several decades and they have weathered fairly well over the years. Unfortunately, they still require sizable investments in software, hardware and training to run fluently and many law firms are just not willing to make that investment.

Today, lawyers can turn to cloud-based litigation support platforms instead. These services offer most of the major features found in the larger server-based products, and offer more flexibility in accessibility and management.

In one sense, e-discovery has utilized cloud-based platforms for many years. High-end vendors have always delivered their platform over the Internet via a variety of technologies. The difference today is that the cloud-based tools (also known as "software-as-a-service" or SaaS) are built from the ground-up to be delivered over the Internet via a web browser. That typically means a less feature-rich experience than other high-end services, but the cloud-based e-discovery tools today are easy to use and require no setup.

Cloud-Based Tools vs. Discovery of Cloud-Based ESI

A common point of confusion is between e-discovery tools that are based in the cloud, and NOT the collection of cloud-based electronic data.

The discovery of cloud-based data is becoming a hot topic today with the proliferation of social media (e.g. blogs, Facebook, Twitter, etc.) and cloud-based storage services (e.g. Dropbox, OneDrive, etc.). Information that is stored on social media or cloud-based storage services is discoverable if it is relevant to a litigation matter, and more parties are seeking the production of such data.

Instead, this section focuses on cloud-based tools for e-discovery, specifically for the document review portion of an e-discovery project. Instead of relying on tools such as Summation or Concordance, lawyers can use cloud-based services such as Lexbe or Nextpoint to review the documents that have been collected. These services also allow lawyers to search, tag and produce documents.

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Selected Cloud-Based E-Discovery Tools

Lexbe - (www.lexbe.com)
Lexbe features a linear database listing of your documents with quick access to document images. One specific feature found in Lexbe is their "case analysis" tool that allows you to pluck key facts and issues out of certain documents and build a chronology of the case. Lexbe allows for native review of electronic documents and can produce document accompanied by a variety of load files (DAT, DII, etc.).

Nextpoint - (www.nextpoint.com)
Nextpoint features a "Google-like" interface to your documents, allowing for immediate search. If that's not enough, Nextpoint features an Advanced Search screen which allows a user to get granular in their search. Nextpoint can be used as a document review platform (Discovery Cloud) or as a trial presentation tool (Trial Cloud). Nextpoint can also produce documents in a variety of formats accompanied by appropriate load files.

CloudNine Discovery - (www.cloudninediscovery.com)
CloudNine Discovery (formerly Trial Solutions) features the "SelfLoader™" which allows customers to easily upload their data to the service. Accepts native files as well as OCR and scanned images.

Logikcull - (www.logikcull.com)
Logikcull is a newer entrant to the field of cloud-based e-discovery tools but promises to "blend all aspects of e-discovery and records management into one easy to use service accessible from anywhere." Logikcull has also promised to pay particular attention to mobile users who want to access the service from iPads and other tablet devices.

Thomson Reuters eDiscovery Point - (http://legalsolutions.thomsonreuters.com)
Announced in February 2016, Thomson Reuters entered into the cloud-based document review space with their own offering called eDiscovery Point. The platform was created based on Thomson Reuters' extensive experience with the legacy product, Case Logistix, and their wealth of experience from Pangea3 contract reviewers.

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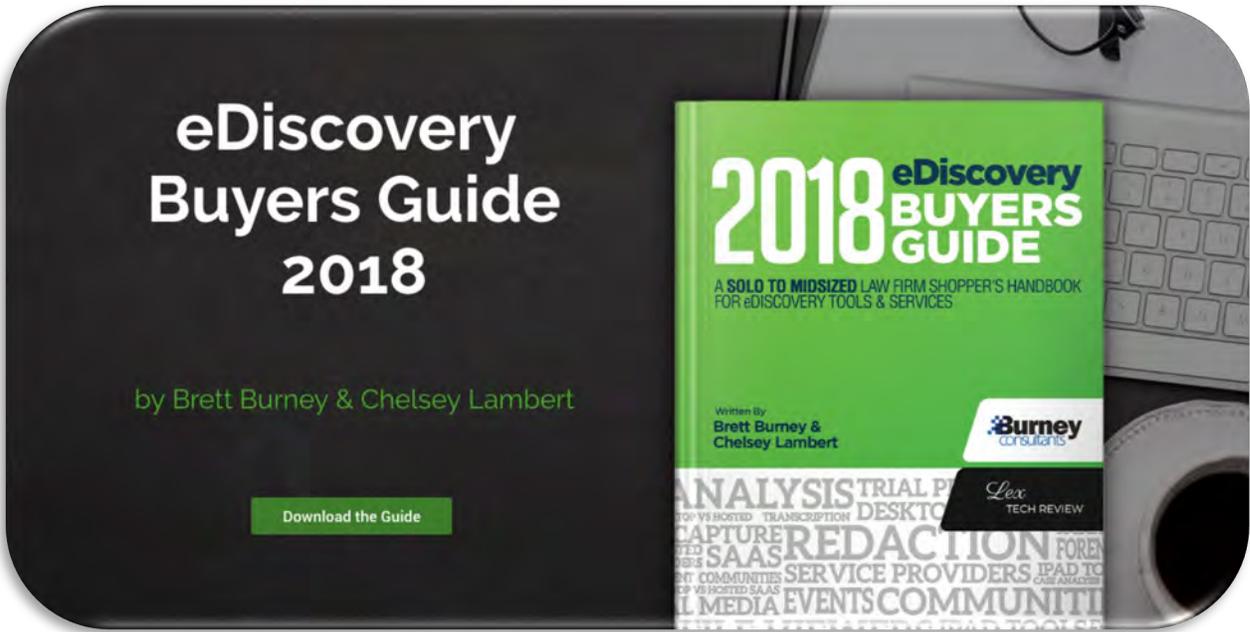
Download the **FREE** eDiscovery Buyers Guide

A Solo to Midsized Law Firm Shopper's Handbook for eDiscovery Tools & Services

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Authored by
Brett Burney and **Chelsey Lambert**

Wouldn't it be nice if there was a handbook to explain when and how to use eDiscovery solutions without spending hundreds of thousands of dollars?

For solo, small and mid-sized law firms finding answers to eDiscovery tech questions hasn't been an easy task.

Brett Burney (Burney Consultants LLC) and Chelsey Lambert (Lex Tech Review) have teamed up to publish the 2018 eDiscovery Buyers Guide to solve exactly this problem.

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2019 eDiscovery BUYERS GUIDE

A **SOLO TO MIDSIZED** LAW FIRM SHOPPER'S HANDBOOK FOR eDISCOVERY TOOLS & SERVICES

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ACTION SAAS A.I. FILE VIEWER

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Brett Burney is Principal of Burney Consultants LLC where he focuses his time on bridging the chasm between the legal and the technology frontiers of electronic discovery.

Prior to establishing Burney Consultants, Brett spent five years at the law firm of Thompson Hine LLP in Cleveland, Ohio, where he worked extensively with litigation teams in building electronic document databases, counseling on electronic discovery issues, and managing the technical responsibilities of presenting electronic evidence at trial.

Brett is a featured speaker at numerous legal technology conferences and is a well-respected author on legal technology topics.

Chelsey Lambert is a Legal Technology Specialist, published author, and CLE Speaker. Over the course of more than a decade serving solo, solo, small, and mid-sized law firms, she has seen the challenges of both selecting technology and training staff how to use it.

As a former Practice Management Advisor for the Chicago Bar Association, and VP of Marketing for a Case Management Platform, Chelsey also works with vendors to appropriately price or modify their products to suit the needs of the solo to midsized law firm user.

In 2017, Ms. Lambert published the nearly 200 page 2017 Legal Technology Buyers Guide, which has been downloaded by thousands of law firms worldwide

The Mission

Brett Burney and Chelsey Lambert originally met at a CLE Course delivered at the Chicago Bar Association in 2014. Both experienced speakers and legal specialists, they share a passion for helping solo, small and midsized law firms tackle challenges with technology.

In late 2017, Lex Tech Review published the first edition of the Legal Technology Buyers Guide and attorneys, paralegals, and litigation professionals responded with requests for more information about products specific to the eDiscovery process.

The opportunity to collaborate was clear - the team quickly recognized a need to create a handbook for solo to mid-sized law firms that would help them navigate the confusing assortment of eDiscovery products, service providers, and resources.

The result was the inaugural edition of the eDiscovery Buyers Guide in 2018 which was accompanied by a dedicated website, blog, and YouTube Channel where the authors will continue to share valuable insights and information on tools and service providers that understand the needs of solo to midsized law firms.

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Welcome to the eDiscovery Buyers Guide Created Just for You!

Last year's eDiscovery Buyers Guide had a profound impact on the practice of hundreds of attorneys — for the first time they had access to a functional guide to help make sense of the myriad choices in eDiscovery tools and services on the market. Lawyers in small and midsize firms finally had a practical resource to help them overcome their eDiscovery challenges.

We had two primary goals in creating the first eDiscovery Buyers Guide:

1. First, we wanted to provide a literal "Buyers Guide" so that lawyers could avoid the manual and inefficient processes that typically plague litigation matters today.

2. Second, you could refer to the eDiscovery Buyers Guide to learn about products that might be helpful to your clients, or gain a better idea of the products being used by opposing counsel.

One significant piece of feedback we received was how grateful you were for the comprehensive written reviews, but they provided only a limited perspective. So, this year we've added short video reviews of each product so you can see what the tools look like and get an idea of how they work. You'll also get a snapshot of "recent developments and updates" from each tool.

We've designed this **2019 eDiscovery Buyers Guide** to be your indispensable companion for choosing and implementing the necessary tools you need for your eDiscovery tasks and litigation technologies.

Let us know if you have any questions and thanks for reading!
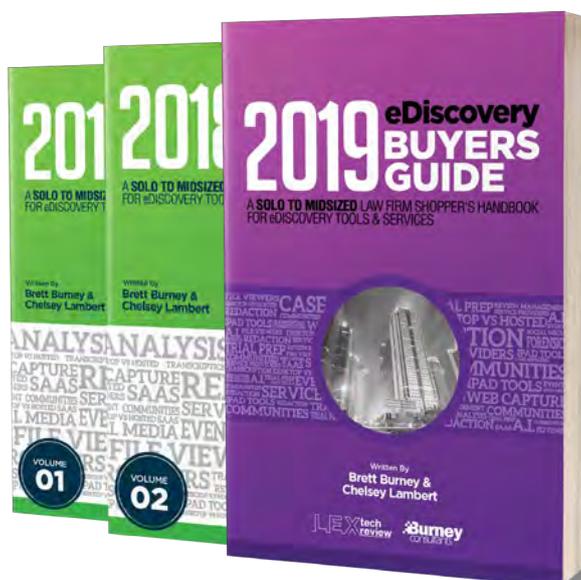
"If you've been tasked with finding eDiscovery software, you know it's a never-ending loop of how do I find products? Will they work? And how do I go through the RFP process and get them working with the rest of our systems? Chelsey and Brett have identified the pain points and addressed them in the eDiscovery Buyers Guide."

Kelly Twigger
Columnist at Above the Law and
Principal of ESI Attorneys

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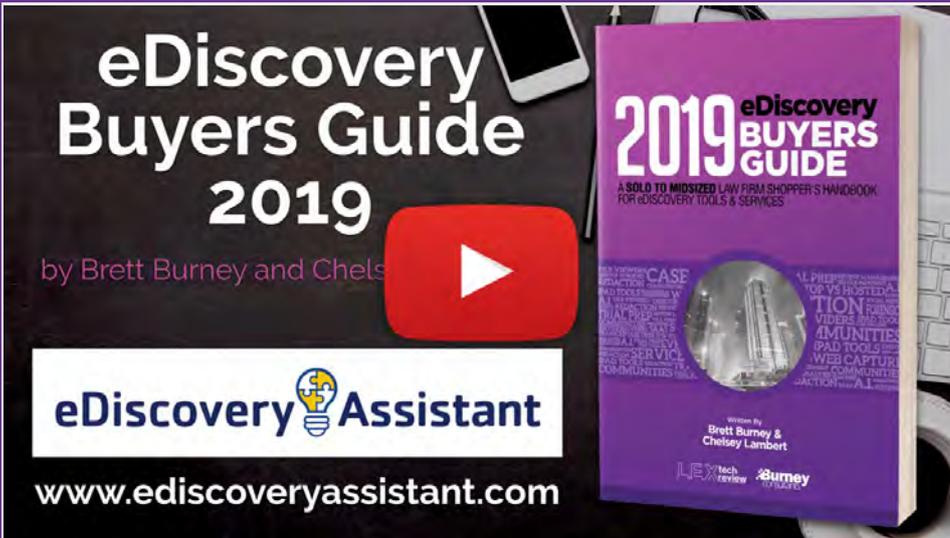
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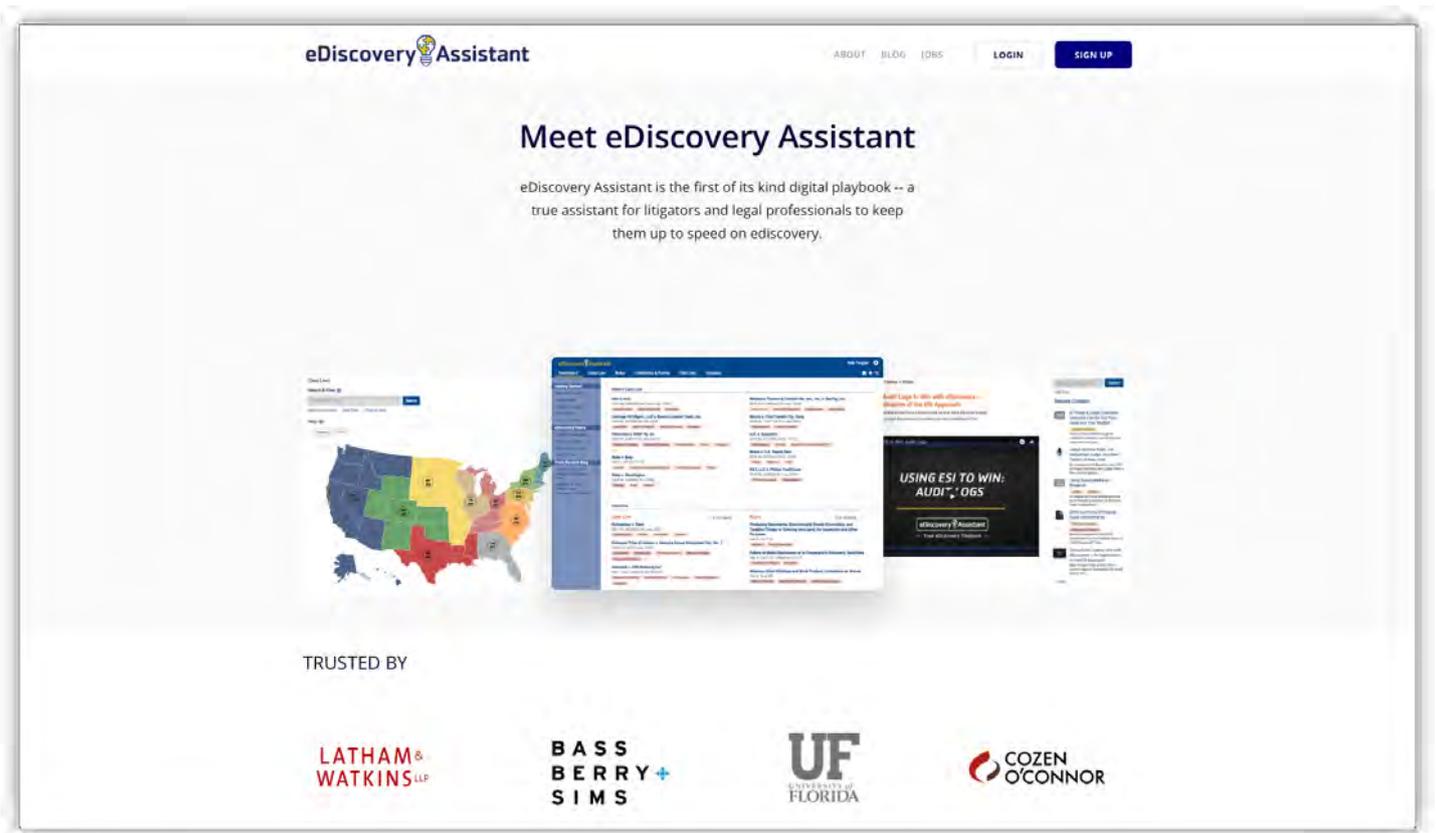
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If you still believe that eDiscovery is just about the technology for handling data in litigation, you are putting your practice at risk. The last several years have produced a growing body of substantive law dealing with the collection, review, and production of electronically stored information (ESI) with over 750 cases through June in 2019 alone.

Since 2006, when the FRCP added ESI to the definition of discoverable information, there have been an average of 700+ cases a year on electronic discovery, with the last five years exceeding 1000+ decisions. Competent litigators today must understand the issues inherent in ESI and how to handle them for their clients to find and use the best evidence for a case, as well as controlling costs. That means understanding what the issues are, how courts are resolving them and what that means for how you handle eDiscovery in litigation. ESI has also created a more process driven practice area than the law has ever seen, and it's a brave new world for litigators.

But how do you become competent in eDiscovery case law when it's evolving at such a rapid pace? You could just start Googling, or assign the research task to a younger colleague, or you could go directly to a trusted source and get the answers you need in a few clicks with eDiscovery Assistant.

> " *Not only does eDiscovery Assistant compile a curated list of cases and rules for your use, but you can also find an extremely helpful collection of related checklists that you would otherwise have to beg or scrounge for.* "

eDiscovery Assistant is a specialized online legal research and reference tool designed to be the first stop for litigators and legal support professionals to learn what they need to know in ediscovery. Kelly Twigger, the Principal at ESI Attorneys and the CEO of eDiscovery Assistant, developed eDA for the Firm's own use in their practice as ediscovery counsel and has now made it available for litigators to have the latest rules, case law and processes at their fingertips. Think legal research on steroids -- case law searchable by ediscovery specific issue and searchable down to the District Court and judge. You can't do that anywhere else.

Not only does eDiscovery Assistant compile a curated list of cases and rules for your use, but you can also find an extremely helpful collection of related checklists that you would otherwise have to beg or scrounge for. Lastly, there's a glossary and helpful notes found throughout the platform to ensure you are well-prepared for any scenario. Users receive regular updates with new case law and content to allow them to learn ediscovery at a regular pace, instead of a fire drill when an issue arises.

As Kelly explained to me in an interview, eDiscovery is a process-driven legal practice which requires a different set of skills and approaches when compared with other areas of law. For example, there is a specific process for implementing a legal hold, a process to create a proper ESI protocol between parties, a process to follow to determine if something is proportional, and a typical standard process for setting up and managing a document review project. The challenge for litigators today is to be aware of these processes and make sure they effectively integrate them into their strategy and overall considerations.

Case Law and Rules
Access to eDiscovery Assistant is through a monthly or annual subscription, which many happy customers will tell you absolutely pays for itself the first time or two that they use it. The interface is simple and intuitive – when you need to search for

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an opinion, you simply click the "Case Law" tab and type in a word or phrase. You can filter your search by jurisdiction (Federal or State), by date, or pick from a topic set of "Tags."

For example, let's say you need to understand the scope of questions you can pose to the opposing party in a 30(b)(6) deposition regarding the location and sources of their potentially relevant ESI. You need to know what questions you can ask and how judges have ruled on the topic. In eDiscovery Assistant, you can pull up the Tags panel and select the "30(b)(6) or corporate designee" tag which will pull up over 400 cases from across the country. Drill into your jurisdiction and find how your court and even your judge has previously ruled on these issues. By default, the opinions are sorted by "Relevance" but you can also sort by "Decision Date."

eDiscovery Assistant also shows a colorful map of the United States that immediately shows you how many opinions come from each Federal Circuit or State. Within three or four clicks, you can narrow down the opinions to find the opinions from a specific state. Clicking on a case will bring up the text of the opinion which can be further searched for specific words, or you can download the PDF of the document. While other research tools only go to the Federal Circuit level, eDA drills down into each individual District Court to let you zero in on rulings from your judge, or judges in the same district.

While there are many places you can find Federal or State rules, eDiscovery Assistant offers a straightforward method for bringing up the specific rules that apply to electronic discovery and the admissibility of electronic evidence. You can peruse the Federal Rules of Civil Procedure, or select the "States" tab to click through those rules (which many have simply adopted the language from the Federal Rules). Even better, when you click into a rule, eDiscovery Assistant shows you the entire text of the rule, but you can click the "eDiscovery" button to toggle showing just the text of rule in bold that applies to ESI. eDiscovery Assistant also includes the "Committee Notes" from the rules, in which legislatures have provided specific commentary on how they expect the rule to be interpreted.

Checklists and Forms
Because eDiscovery is process-driven, Kelly and her team at eDiscovery Assistant wanted to ensure subscribers had access to as much practical information and guidance as possible, which is why they created the "Checklists & Forms" tab.

For anyone that has ever asked for a "Legal Hold Checklist," or a "Sample Clawback Agreement," or directions for creating a corporate data map, or a sample record retention policy – all of these items (and more) are included in eDiscovery Assistant and accessible in a click or two. Many of the checklists also have an option to "Show eDiscovery Tips" where the team at eDiscovery Assistant has added expert direction for the items in the checklist.

Who is eDiscovery Assistant?

eDiscovery Assistant is a comprehensive eDiscovery resource for attorneys and legal professionals built by Kelly Twigger, the Principal of ESI Attorneys and a nationally known eDiscovery attorney, author, and speaker. eDiscovery Assistant curates case law, rules, checklists, and forms to deliver on-demand, practical knowledge for litigators.

Why You Should Consider eDiscovery Assistant...

▸ Save hours with eDiscovery case law sortable by issue, jurisdiction and judge in three clicks.

▸ Find answers to terms you don't know with access to a full glossary of eDiscovery terms and phrases.

▸ Create cite lists of research results to share with colleagues or save for later.

▸ Leverage the database of 80+ checklists and forms on ediscovery processes.

> " *eDiscovery Assistant is an indispensable resource for today's litigators to keep them relevant and competent.* "

Try Out eDiscovery Assistant For Yourself!
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eDiscovery Assistant

Case Analysis & Chronologies

CaseFleet
CLOUD-BASED CHRONOLOGY AND
TIMELINE TOOLS FOR REVIEWING CASE
EVIDENCE AND ORGANIZING FACTS
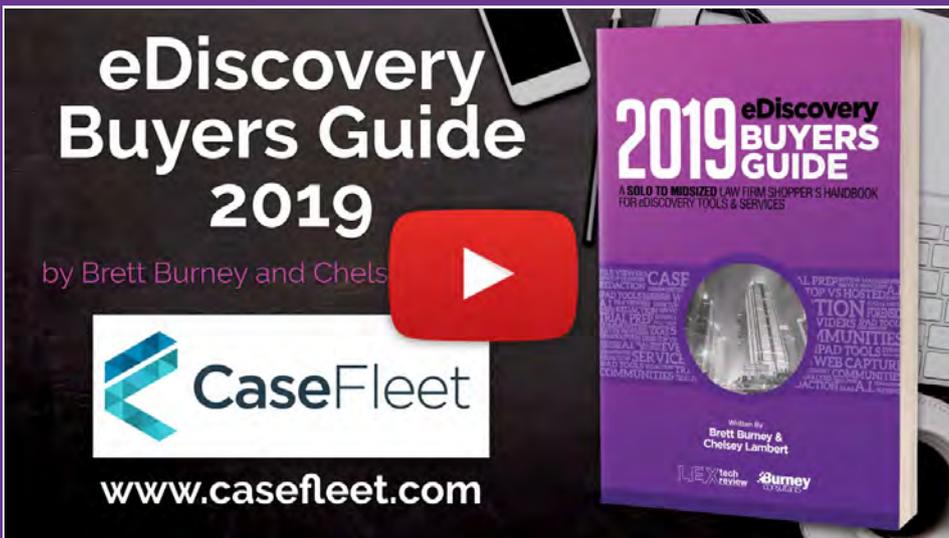
VIDEO REVIEW

Click to view a short video review
of CaseFleet on YouTube.

Recent Developments and Updates

▶ **Visual Timeline -** In addition to viewing a "linear" list and chronology of your facts, CaseFleet now offers a brilliant visual timeline that more accurately shows the spatial time periods of when events occurred. You can drill down to specific dates and time ranges, and download a PDF of the timeline at any time.

▶ **Rich Text Formatting in Facts.** You can now italicize and bold text in Facts, and create multiple paragraphs. The formatting options carry over to Reports downloaded in Microsoft Word.

▶ **Saved Views for Facts, Cases, and Sources.** You can choose a set of criteria on various pages in CaseFleet to create a saved list of records which can be facts, sources, or even cases.

▶ **Deposition Transcript Viewer.** When you upload a deposition as a .TXT file to CaseFleet, you can highlight portions in the transcript and the page and line numbers will be added to the citations for the facts you create.

CaseFleet
CLOUD-BASED CHRONOLOGY AND TIMELINE TOOLS FOR REVIEWING CASE EVIDENCE AND ORGANIZING FACTS

If you're a litigator, you already have a method for building a chronology of events for your matters - it's a vital, practical, and necessary exercise so you can be confident in knowing what happened when, and who was involved.

The problem is that your timeline may only exist in your head, comprised of facts and details that you pick up while you read through documents associated with the case. There's no way you'll remember everything under the stress of a hearing or trial.

At best you may have created a Microsoft Word document or Excel spreadsheet with columns holding dates and events. But these chronologies can be hard to sort, search, or filter which limits your ability to focus on the specific elements of your case.

CaseFleet was designed specifically for litigators to create chronologies, link events to issues, and

associate the pertinent documents so they're easily accessible. As one attorney put it, "CaseFleet is the best tool I've seen for quickly organizing the facts of a case and linking them to documents and witnesses. It's hard to overstate how much time this saves."

> **CaseFleet was designed specifically for litigators to create chronologies, link events to issues, and associate the pertinent documents so they're easily accessible.**

Time for a Cloud-Based Chronology
Since CaseFleet is cloud-based, you can access all your information from any computer or mobile device. You have complete access to all the facts, issues, contacts, and documents associated with your chronology from anywhere right at your fingertips.

The primary focus of CaseFleet is the "Facts" view since that's really how most litigators seek to tell their clients' story based on when events happened. If you were writing out your chronology on a yellow legal pad, you'd start off by writing down a date, and then include the "players" involved in the event. You'd probably also write down where the event happened along with a note or two about how all this information relates to your case.

It's much the same approach with CaseFleet, but you gain so much more with the ability to sort, filter, and search the information you put into CaseFleet.

Building your Chronology
You can start your chronology in whatever way makes sense to you, but most folks begin by typing in the important people and entities involved in the case. For an employment discrimination matter, you would put in the name of the plaintiff, the company they worked for, any managers or supervisors, the executive officers of the company, the HR representative, etc.

Once you have the people involved recorded in CaseFleet, you can start recording "Facts" of the matter, which is not limited to legal-related issues. You can add any fact or note that's pertinent to the case and/or that's important to you. This would include the start and end date for an employee, the date a car accident or injury happened, when you received a complaint letter, etc. It's important to add a date to each Fact, even if it's just a year or month - this will enable CaseFleet to show you the Facts in context of the chronology.

> **CaseFleet can recognize text (OCR) in any scanned PDFs so you can select and search text.**

The best part is that as you type your Facts, you can link to specific contacts that you've already recorded in CaseFleet. All you have to do is use the @ symbol before a person's name, similar to how you might do so in Twitter or Facebook. If you properly link Contacts to your Facts, then you can immediately filter down your list of Facts to see exactly where certain individuals were involved - "show me all the facts that involve John Smith."

You can also filter your Facts by a date range so that you can immediately see just the events that happened in the last year, last month, etc.

But don't stop there - you can also create a list of Issues that are relevant to your matter and then assign them to your Facts. These don't have to be legal, substantive issues - you can create an Issue as a simple way to tag or categorize the individual Facts involved in your chronology.

For example, you could add legal Issues such as "causation" or "adverse action" for a torts case, but you could also add Issues like "job duties" or "fun facts" or even "John's key documents" - anything that will help you better organize your list of Facts. You can filter your list of Facts by any of the Issues you've created.

Even better, you can add specific colors to each Issue that appear when you view the visual graph of your timeline.

Link Documents to Your Events
Since many of your Facts will be based on things you learn while reading through emails and documents, CaseFleet designed an amazing tool for uploading files, documents, and images into the system so they can be linked to the Facts they support.

Adding a document to CaseFleet is as simple as dragging and dropping it into your web browser. While CaseFleet is not designed to be a traditional document review tool, you're certainly welcome to load as many documents as you need to glean bits of information from to construct a chronology of events or support the arguments you plan to make in your case. And a document uploaded to CaseFleet can be viewed in a separate tab in your web browser.

As you read through the document, you can create a new Fact right from the document viewer, which immediately links the document to that Fact (documents can be linked to multiple Facts). Even better, you can highlight specific text in the document and create a citation directly to that location in the document.

CaseFleet has continued to make impressive improvements to its OCR capability, even on handwritten notes (as long as the handwriting is somewhat legible). While nothing can be perfect when it comes to a computer recognizing text, CaseFleet lets you search scanned PDFs and handwritten notes and even highlight a section of the handwriting to create a new Fact.

Reports

Since there's a good bet that you'll need to share some of the information from your CaseFleet chronology with colleagues and team members, you can export a number of Reports such as "Simple Chronology," "Facts by Issues," "Fact Spreadsheet," and several more. Or you can create a custom report that better suits your specific needs.

The Report wizard walks you through the whole process, and you'll have an opportunity to filter out the specific Facts, Issues, or other items that you want included in the Report.

Who Is CaseFleet?

Based in Atlanta, GA, CaseFleet was founded with the single goal to give lawyers an edge in litigation. CaseFleet was founded by a litigator who tried all of the software options available to small and mid-sized firms and decided that it was time for a better option.

Why You Should Consider CaseFleet...

▸ Amazing visual timeline graph that is color-coded so you can quickly pinpoint the different issues involved in your matter.

▸ Upload a document and highlight text that will support a Fact. The Fact links back to the section of the page where you highlighted the text.

▸ Metadata is extracted from any document that gets uploaded to CaseFleet so you can see all that information in the platform.

▸ You can include as many filters to create the precise Report that you need.

> *CaseFleet was designed specifically for litigators to create chronologies. Since many of your Facts will be based on things you learn while reading through emails and documents, CaseFleet designed an amazing tool for uploading files, documents, and images into the system so they can be linked to the Facts they support and the pertinent documents so they're easily accessible.*

Try Out CaseFleet For Yourself!
See the power of CaseFleet for yourself and start your free 14-day trial now!

CaseFleet

How to Ask for a PDF Production that Won't Waste Your Time

By Jeff Kerr,
CaseFleet
www.casefleet.com

PDF files are used in almost every industry as the standard file type for a document that has reached its "final" form, such as a signed contract, a filed pleading, or a scanned document. In contrast, when we're still editing a document, it will be in Word, Excel, or some cloud-based variant such as Google Documents. But once editing is complete, we usually convert it to PDF.

Even though PDFs can be edited, applications for viewing and editing PDFs, such as Acrobat, Nitro PDF or ABBYY FineReader, don't generally open PDFs in editable mode. You really have to try to change the contents of a PDF. This is why PDFs are used to save signed contracts, pleadings, scanned documents. There's nothing magical about PDFs, no guarantee against modification; they merely look like paper documents and are somewhat harder to edit than other formats, like Word.

For better or worse, PDFs are probably the most popular file type exchanged during civil discovery. But even in cases where PDFs will be used for exchanging discovery documents, there are still many open questions as to how the PDFs will be exchanged. Parties will have a better experience in civil discovery if they address these questions early, well before they exchange any documents.

If you are requesting documents from an adversary, I strongly recommend insisting on one point and making it non-negotiable. PDFs should be produced with a separate PDF file for each originally separate document. In technical language, the production should be "logically unitized." If the other side is going to provide you with 100 documents, they must provide you with 100 separate PDF files. The other side should not and must not combine the 100 separate documents into one giant PDF file!

What if they refuse? I'm glad you asked.

First, I'm going to let you in on a secret: the only reason that anyone ever combined 100 separate documents into 1 huge PDF was to make your day worse. Combining the documents serves no conceivable purpose other than to make the documents more difficult to understand, review, and manage. After a decade of observing this practice and many candid conversations with parties on both the producing and receiving end of these productions, I can report that no one has given me any other reason why this practice occurs.

The trick to getting your way on this point is to persuade your opponent (and, if necessary, the court) that glommed-together PDF productions are a great waste of time and nuisance. I think we can all agree that it's better not to waste time and create nuisances!

The next issue to consider in PDF productions is what the file names of the separate files will be. If you're at all like me, you probably don't relish the site of a folder on your computer with 100s or 1000s of files whose names bear no relation to their contents. If you're trying to work your way through a folder of documents to review, seeing files named PLF-00012312.pdf, PLF-00012313.pdf, PLF-00012314.pdf, and so on, is not going to help you figure out which documents to review first. As a result, you should explicitly request that the PDFs included in your production retain the names of the original files they relate to. If the original document

corresponding to a PDF was called "business plan.docx", then the name for the PDF should include "business plan" somewhere in the name. If it's necessary for the producing party to include a Bates label, then the label should be added at the beginning of the name of the file—e.g., "PLF-0001231_business plan.pdf".

If you'd like to receive better PDF productions, take the time to include explicit and easy-to-understand instructions regarding unitization and file naming conventions in your document requests. It's also helpful and often essential to negotiate this point during a meeting or phone call with your opposing counsel. And, of course, you should be prepared to follow the same protocols in your own productions.

About the Author:
A Texas native and alumnus of Rice University, Jeff graduated from Emory Law before co-founding the firm Mays & Kerr. After 5 years of litigating employment cases and consulting with other attorneys on e-discovery issues, Jeff founded CaseFleet to develop tools to help lawyers construct and manage their cases more efficiently. When not busy working on the latest CaseFleet features, Jeff can be found playing with his two miniature schnauzers and new baby boy, relaxing with his wife Lindy, and playing the guitar and piano.

eDiscovery Solutions

ABBYY FineReader

ALL-IN-ONE PDF AND OCR SOFTWARE FOR LEGAL PROFESSIONALS TO POWER ALL OF YOUR NEEDS IN EDISCOVERY, EFILING, ARCHIVING, AND MUCH MORE

ABBYY®

VIDEO REVIEW

Click to view a short video review of Abbyy on YouTube.

Recent Developments and Updates

▸ **Convenient Methods for Editing and Commenting on PDFs.** Correct typos and change pictures directly within a PDF, as well as add comments and sort those comments by author, date, or status.

▸ **Ensure Your PDFs are Compliant for Long-Term Archiving and Accessibility.** Ability to export as PDF/UA for "universal accessibility" which improves the accessibility of PDFs for people who use assistive technologies.

▸ **Updates for Structured Elements in Documents.** Improved creation of PDF tags for structured elements in documents such as headings, paragraphs, lists, etc.

▸ **Text Recognition for Foreign Languages.** Core OCR technology updated to improve detection of tables and symbols from Korean and Japanese languages.

ABBYY FineReader
ALL-IN-ONE PDF AND OCR SOFTWARE FOR LEGAL PROFESSIONALS TO POWER ALL OF YOUR NEEDS IN EDISCOVERY, EFILING, ARCHIVING, AND MUCH MORE

Since a substantial proportion of documents received and exchanged during litigation are PDF files, it makes sense that litigators must have a comprehensive PDF software package in their toolbelt. ABBYY FineReader for Windows is an all-in-one tool for managing, annotating, redacting, and converting PDF files that earns it a credible place in any eDiscovery project.

If you recognize the name ABBYY, it's probably because you've heard of their superior OCR technology. Started over 20 years ago, ABBYY's core competence has been in digitizing paper documents, but today FineReader is a full-fledged PDF powerhouse that offers a wide range of tools for PDF editing and collaboration. FineReader offers a wealth of options for converting electronic files into PDF (even automating the process), as well as document comparison tools.

There is FineReader Standard, but lawyers and law firms should go with FineReader Corporate for the additional document comparison and automation features.

How Does A Computer Read Your Documents?
OCR is the abbreviation for "Optical Character Recognition" and is a phrase that describes how a computer attempts to recognize printed or typed characters, and then converts them to editable text. For example, if you take a picture of a magazine article with your phone, you can read the text in the picture with your human eyes, but the computer can't read the text unless it first attempts to recognize the individual characters. Otherwise, it's just a picture to the computer.

> " *ABBYY FineReader is an all-in-one tool for managing, annotating, redacting, and converting PDF files that earns it a credible place in any eDiscovery project.* "
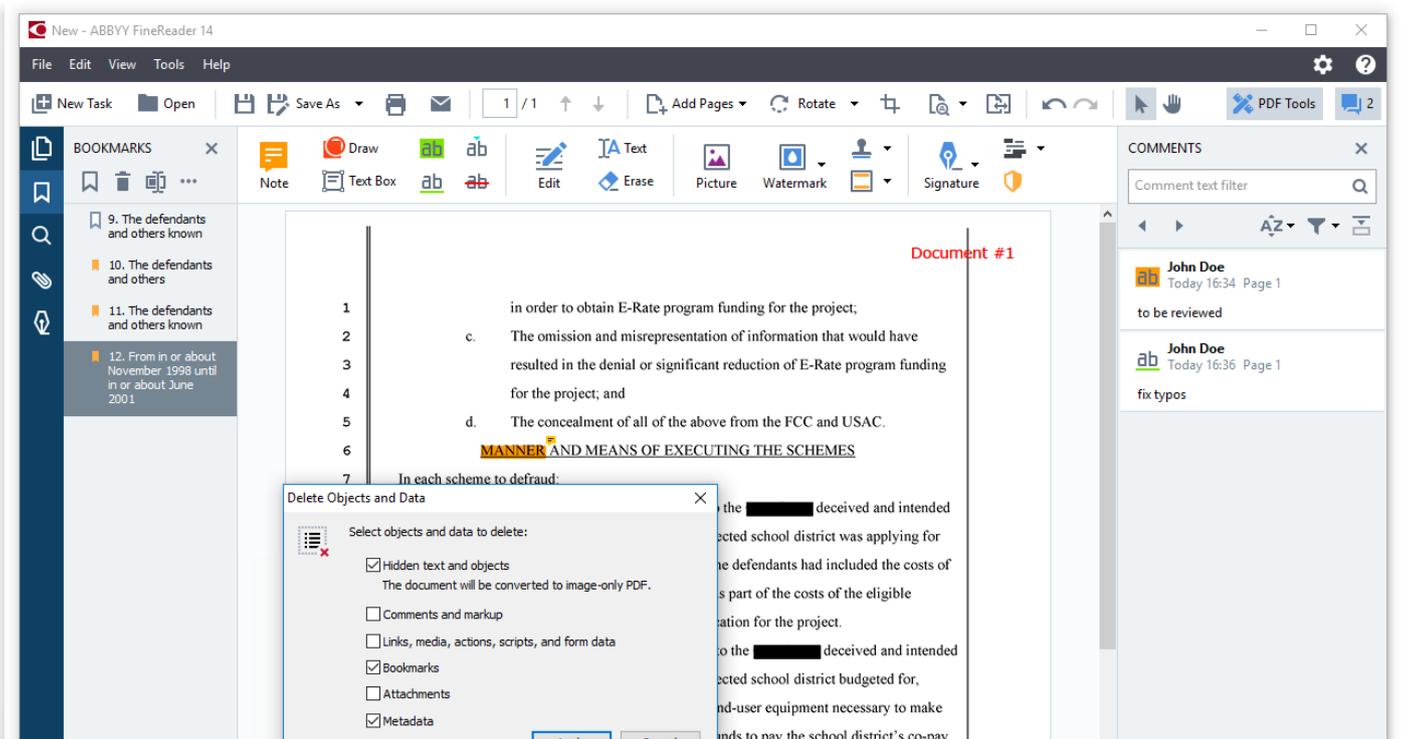
Computers aren't as good (yet) at recognizing text from pictures as we humans are, so OCR is not 100% dependable all the time. For example, a computer might interpret a lowercase "l" as a numeral one, which means a word containing that character will not be fully searchable on the computer. So if you're caught in a situation where you (or opposing counsel) only possesses an un-searchable PDF file, it makes sense that you would want to use one of the most well-trusted OCR engines to get the best chance at the highest accuracy. And that's why so many law firms, service providers, and other companies turn to ABBYY.

In fact, ABBYY FineReader 14 can automatically recognize text in the background when you open a TIFF image or scanned PDF – it's just baked into the platform. But if you want to re-recognize a section, or pinpoint an image or table that failed OCR, then you can simply select that item and right-click to recognize it on the fly.

Even better, ABBYY FineReader includes a dedicated OCR Editor that lets you go through and verify the recognized text – you can step through the document and double-check every item that FineReader flagged as questionable. You get a box with the image of the text in question accompanied by the editable text version of that image, and you can easily make any necessary corrections.

You have the option of saving a PDF file as a Microsoft Word document (along with several other options). This sounds like it should be an easy function, but the text of the converted Microsoft Word document is only going to be as good as the recognized text. So if a Microsoft Word document is your end goal, it's worth spending a bit of time in the OCR Editor to make sure the recognized text is completely accurate.

Searching and Security
One of the biggest benefits with ABBYY FineReader's OCR technology is that when you

search the PDF for a word or phrase, it highlights your search results in the image layer of the PDF. FineReader also lets you search any typed comments included in the PDF as well as bookmarks in the file metadata.

Searching text is also useful when you need to find and redact a word, phrase, or series of numbers (e.g. Social Security Number, credit cards, other PII, etc.). When you find a word or phrase and elect to use the redaction tool, it will completely erase the words from the image layer of the PDF as well as the text layer, so that all traces of that phrase are really, really gone – unfortunately, many litigation teams fail to do both steps (even recently!). When you enter into the redaction tools, you can select objects and data that you want to delete including any hidden text, comments, annotations, bookmarks, and metadata.

Lastly, FineReader allows you to apply a password to the PDF so that you can limit who can open the file, or prohibit any editing or even printing of the PDF.

File Open and File Convert
As mentioned above, FineReader allows you to convert a PDF file to a fully-editable Microsoft Word document, but you can also convert PDFs into Excel spreadsheets, PowerPoint presentations, or simple text files.

Most important for the legal profession is the option to export a PDF/A file which is a self-contained file type created to properly preserve fonts, formatting, comments, and more for archiving purposes. Many courts today require the PDF/A format along with Pacer and the Library of Congress.

On the flip side, FineReader will happily open and convert other file formats into PDF files. You can use the "File > Open" command in the FineReader application to find a file, or just highlight a list of files in Windows and right-click to send to FineReader for conversion. A box appears allowing you to re-arrange the files before conversion with a few other helpful options (including whether to OCR the files if necessary).

If and when you receive a "data dump" from an opposing party and need to convert and/or OCR those files for your own use, FineReader can automate that task. You can customize the steps you need FineReader to take on the files (e.g. open the file, OCR, save to a different folder, etc.) and then set up a schedule to run the job on a certain folder every day or week, etc.

> **"** *If you want to recognize the text in a specific section then you can simply select that item and right-click to recognize it on the fly.* **"**

If you find yourself repeatedly converting and OCR'ing high-volumes of files, then you might consider the ABBYY FineReader Server which can automatically process documents from folders, scanners, or emails.

Document Comparison

One of the most powerful tools in FineReader Corporate is the Document Compare tool. Microsoft Word allows you to compare two documents, but only if they're both Word documents. FineReader Corporate allows you to compare documents in different file formats – you can compare a PDF with a Word document and the results are amazing, mostly due to the text recognition engine found in FineReader.

Once done, you can step through each comparison with a helpful panel on the right side and decide whether the changes are acceptable. When you're done, FineReader allows you to save a new PDF that includes the differences as "comments" to the PDF file. That means you can send the PDF to a colleague so you can collaboratively observe and discuss the differences. This is an extremely helpful tool for teams to highlight the changes and proceed forward.

Why You Should Consider ABBYY FineReader Corporate...

▸ You can purchase ABBYY FineReader 14 individually, and volume licensing starts with 5 users at a 10% discount.
▸ Powerful document comparison tool that allows you to find differences in multiple file types (Word, PDF, text, etc.).
▸ Comprehensive OCR technology built on top of one of the most trusted text-recognition engines complete with an OCR Editor for precise corrections.
▸ Accompanying iOS and Android apps for text recognition including FineScanner and TextGrabber.

> " *FineReader allows you to compare documents in different file formats – you can compare a PDF with a Word document and the results are amazing.* "

Try Out ABBYY FineReader Corporate For Yourself!
Read about how other law firms are using ABBYY FineReader and why it's an essential tool for their practice.

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AYFIE INSPECTOR
LINGUISTIC ANALYTICS TO UNDERSTAND
MASSIVE AMOUNTS OF UNSTRUCTURED
CONTENT ACCESSIBLE FOR REVIEW IN
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eDiscovery
Buyers Guide
2019
by Brett Burney and Chels

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2019 eDiscovery
BUYERS
GUIDE
A **SOLO TO MIDSIZED** LAW FIRM SHOPPER'S HANDBOOK
FOR eDISCOVERY TOOLS & SERVICES

Written By
Brett Burney &
Chelsey Lambert

LEX tech review   Burney consulting

**VIDEO
REVIEW**

Click to view a short video review
of Ayfie on YouTube.

Recent Developments and Updates

▸ **Additional Focus on ayfie Inspector for Growing Data Volumes.** ayfie continues to improve the linguistic analysis tools built into ayfie Inspector so that legal service providers can integrate the technology into their hosting platforms (e.g. Relativity, iConect, etc.).

▸ **Dynamic Query Suggestions Based on Key Entities and Concepts in the Data Set.** ayfie Inspector automatically suggests searches and queries based on the entities and concepts found in the data sets.

▸ **Enhanced Capability to Identify Personally Identifiable Information (PII) in Multiple Contexts.** ayfie Inspector is being used in a variety of data breach investigations to quickly recognize PII data points in your data for quick reference.

▸ **Ability to Easily Filter out Redundant Data to Save Time.** One of the hallmarks of ayfie Inspector is to quickly identify redundant and duplicate data so that litigation teams don't have to waste time reading the same information over and over.

AYFIE INSPECTOR
LINGUISTIC ANALYTICS TO UNDERSTAND MASSIVE AMOUNTS OF UNSTRUCTURED CONTENT ACCESSIBLE FOR REVIEW IN RELATIVITY®

While many new technologies claim to utilize "Artificial Intelligence" (AI), "Deep Learning," or machine learning magic to aid in document review, the ayfie team has done something different. They aim to improve search results delivered during the eDiscovery process by asking, "What do the words really mean?"

The issue lies in how machines read queries and provide the results. For example, in a typical review with several thousand documents, if individual tokens are indexed and then returned based on matching keywords, the intent of the query is often detached from the results. ayfie Inspector takes a different approach and leverages a codified understanding of natural language to find relevant parts of documents and focuses the search on those.

Leverage the Power of Linguistic Identification
ayfie Inspector analyzes the linguistic significance of phrases, concepts, entities, and sections of text to build an index of key features that translate into more relevant matches for the user. With the identification of core semantic facts (e.g., clause

Identification for contracts, identification of PII, PHI), ayfie Inspector can facilitate specific workflows within Relativity to tackle processes involved in, for example, M&A, DD, or GDPR Compliance.

> " *While so many new technologies claim using "Artificial Intelligence" (AI), Deep Learning or machine learning magic to aid in document review, the ayfie team aims to improve search results delivered during the eDiscovery process by asking, "What do the words really mean?"* "

The key value in utilizing ayfie Inspector inside a Relativity database is simply to help you find the relevant documents as quickly as possible, and narrow down your dataset so you can better understand what you're looking at. ayfie's Google-like user experience guarantees you the ability to explore your data in an intuitive and simple way so you can promote the documents you need to be looking at to the top. All of this enables you to uncover the "who did what and when" facts faster and easier.

Accompanying the search approaches are stunning visualizations of your data that allow you to easily drill down into specific document collections.

Standard eDiscovery processes like de-duplication, email threading, clustering, and classification are all enhanced by ayfie's linguistic engineering methodology. ayfie Inspector delivers the ideal information to the litigation team to eliminate redundant efforts.

While ayfie Inspector was initially built for Relativity, the platform also enjoys a tight integration with iConect and LLM.

Enriched Contract Metadata Amplifies Relativity Search Results
The integration of ayfie Inspector and Relativity gives you the ability to apply ayfie's range of capabilities to fields within Relativity. Contract review challenges are tackled seamlessly by taking the ambiguity out of terms which are often generic,

similar or buried in long complex documents. Let's say you want to search for "breach." Standard search results return anything with the word breach. Now with ayfie, results delivered could be specific to the presence of "breach" in a confidentiality clause.

By extracting key semantic facts, such as contracting parties and isolating clauses from documents, ayfie allows for deeper analysis of contractual data. For example, enabling a near-dupe analysis on specific clause types so users can quickly identify language that diverges from the standard template. The power of grouping contracts based on timelines, categories or value allows reviewers to quickly prioritize the documents.

Summarization and Reports
After the review process is complete, you can view the data, make tagging decisions, and produce a report for the client. An elegant cover sheet or quick reference guide can be used to swiftly share the contract review opinion.

The use of ayfie's style of Aided-Intelligence (ai) is growing, particularly in use cases that require a higher degree of precision. ayfie Inspector's application of Linguistic Identification increases the relevancy of results, making it a significant innovation in the eDiscovery marketplace. The platform has the potential to uncover more relevant information in a fraction of the time of traditional approaches and as advancements in contract review process become readily available.

Why You Should Consider ayfie Inspector…
▸ Innovative and powerful text analyzer that lets you find crucial information in your structured or unstructured data sets.
▸ Leveraging their unique "aided-intelligence" for AI, ayfie Inspector immediately identifies redundant information through various technologies including email threading and near-dupe analysis.
▸ Fully integrates into document review platforms such as Relativity, iConect, and LLM.
▸ Utilizes superior linguistic processing technology to connect events, places, people, and things.

> " *Standard eDiscovery processes like de-duplication, email threading, clustering, and classification are all enhanced by ayfie's linguistic feature engineering methodology.* "

Try Out ayfie Inspector For Yourself!
Learn more about ayfie Inspector for Relativity® here.

ayfie

Ten Things You Don't Want to See in E-Discovery

Dr. Gavin W. Maines
Avansic
www.avansic.com

Maybe it's a certain document type, production style, or naming convention – here are a few things that make e-discovery life difficult. But keep in mind, these are exceptions rather than the rule. Of all the hundreds of millions of documents Avansic has loaded to online review, the vast majority of them fall into only seven file types. So if you have one of these in your case, it just may require some exception handling, extra time, and potentially some extra costs.

DWG or CAD files
These don't fit neatly into the 8.5x11 size that all of us think a document should be. There are layers and renderings and it's difficult to determine how to present them in a data set comprised of other documents that do fit on a "page." This is especially true for CAD drawings with multiple layers.

Isolating to just the data needed for presentation can be very helpful. There may be instances where the opposing party has a viewer that can accept CAD files, in which case providing the native version is an easy solution.

Select Email on a Macintosh
In this case, the difficulty is that email headers, messages and attachments are stored separately. Common e-discovery and forensics tools don't understand the relationship between these fractured parts of an email. The solution is to re-create the email from its parts using a custom tool based on the data. Alternatively, if one has the Macintosh device, it can be used to export email into PST or MBox format.

Encrypted/Password Protected Files
Without a password, these files aren't accessible. By far the best solution is to obtain the password from the user – there are methods to figure out passwords but it requires very significant computer power, time, and cost, and ultimately, there is no guarantee of success.

Email Archivers
Each archiver is different and may have different problem areas in terms of e-discovery. For example, some archivers gather mail as it is inbound to the system and don't know a custodian (for instance, sales@company.com might re-direct depending on the employee in charge of sales only at that time). Archivers often store emails in a manner that makes them easy to search the body but not the attachments. Then, the entire archive contents must be exported in order to perform proper searches. Here, the best solution is to work with the archive vendor to determine methods for extraction.

Poor Packaging
A loose hard drive in a cardboard box is not an effective way to ensure digital media will arrive at its destination intact. Before you ship, discuss proper shipping guidelines with the party receiving the materials.

Cloud Data That Isn't E-Discovery Ready
More cloud providers are popping up but they are not all equal. Most make it very easy to get your data up but don't necessarily have as robust procedures for you to get your data exported when you need it. It's common for a mass export to take several times longer than it took to upload. As well, the associated metadata may be missing or inaccurate. One of the most common email providers makes it difficult to download hosted email that is ready to be processed in e-discovery. Evaluate each provider at the earliest opportunity to determine the length of collection and if special handling or post-processing is needed.

Files Within Files (Complex File Types)
The most common example is a PST or OST file that contains emails that themselves have a PST attached. Most e-discovery tools don't track a hierarchical relationship of attachments which makes it difficult to understand the context of an item in a given family. Proper searching of any file container will require the expansion of these files beforehand, which frequently results in many more documents than originally anticipated.

Non-Searchable Types That Contain Text Within ESI For instance, a scanned document that is an attachment to an email within a PST. Searching the email for content within that document wouldn't necessarily locate the text in the scanned document. Similar to container file issues, proper searching requires them to be expanded and the individual parts to be processed as well, including imaging and OCR for items without extractable text.

Legacy and Uncommon Email Formats
This includes email in older or uncommon formats or programs such as older MBox, GroupWise, and Lotus Notes NSF files. Often these types require a large amount of additional pre-processing to get to what is considered bare minimum for other formats. The most common solution is to convert these to the EML format, which in many cases loses valuable information including format-specific metadata; once converted, it may still not look like regular email. A solution is to find e-discovery vendors with experience or that have a development shop to decode the format.

Legacy Hardware
Challenges include such as poor connection speeds, types no longer supported with modern operating systems, and drives that may not spin up. A vendor with experience getting information off those devices is needed, as well as an understanding that the time frame may be longer than expected.

Conclusion
Each of these issues requires some expertise to address - it is worth the time to talk with your e-discovery vendor and determine their level of familiarity with the data type before sending the work. The nature of most of these will require additional work and that can often be time consuming and expensive. Ask the vendor if they know of ways to get a similar result without processing the most difficult types directly.

About the Author
Dr. Gavin Manes is a nationally recognized expert in e-discovery and digital forensics. He is currently the CEO of Avansic: E-Discovery & Digital Forensics, which provides e-discovery services to law firms, litigation support departments, and corporations across the country. Dr. Manes founded this Tulsa-based company in 2004 after receiving his PhD in Computer Science and serving as a professor at the University of Tulsa. Avansic's scientific approach to e-discovery and digital forensics stems from Manes' academic experience; this brings a logical and defensible approach to discovery. Avansic creates custom solutions in the laboratory to make processing more efficient and works with clients to create custom solutions and specialized workflows for any size e-discovery project

CloudNine Concordance

PIONEERING DOCUMENT REVIEW TOOL WITH FRESH OWNERSHIP AND DECISIVE IMPROVEMENTS TO ABLY HANDLE MODERN-DAY ELECTRONIC EVIDENCE FOR ALL YOUR REVIEW AND PRODUCTION NEEDS

cloudnine™

VIDEO REVIEW

Click to view a short video review of CloudNine Concordance on YouTube.

Recent Developments and Updates

▸ **One-year Anniversary of the Concordance® eDiscovery Product Suite from LexisNexis.** In March 2019, CloudNine celebrated the one-year anniversary of the acquisition of the Concordance eDiscovery Product Suite from LexisNexis. Since the acquisition, CloudNine has launched Concordance version 10.23 at the Legaltech New York Conference in early 2019 and is poised to release Concordance Desktop 1.07 at the time of this writing.

▸ **Hybrid Offering of Both On-Premise and Off-Premise Software.** With the acquisition of the Concordance eDiscovery Product Suite from LexisNexis, CloudNine now offers a powerful hybrid of both on-premise and off-premise software to fully support their customer needs.

▸ **Enhanced Production Options.** Concordance Desktop now creates placeholder images for unsupported file types or missing images in production sets.

▸ **New File Import Wizard.** Both Concordance and Concordance Desktop can now import native electronic files for processing along with supporting the load file formation.

CloudNine Concordance
PIONEERING DOCUMENT REVIEW TOOL WITH FRESH OWNERSHIP AND DECISIVE IMPROVEMENTS TO ABLY HANDLE MODERN-DAY ELECTRONIC EVIDENCE FOR ALL YOUR REVIEW AND PRODUCTION NEEDS

E-Discovery veterans will already know the name Concordance, but all litigators today operate under its pivotal legacy whether they realize it or not. If you ever encounter the words "load file," ".DAT file," or "Opticon Image" in your eDiscovery adventures, you're paying homage to the hard work that Concordance sweated through in the early, early days of eDiscovery history.

Concordance was developed in the mid to late 1980's by a company called Dataflight, and quickly became the de facto standard for organizing, reviewing, and producing documents involved in litigation. Back then, "documents" still referred solely to paper files but when it became impossible to review hundreds of bankers boxes of paper, law firms would scan each page and put the images and information into a Concordance database. The software was originally offered as a desktop installation that connected to a server for collaboration and storage, and the company developed a hosted version that is still offered by many service providers.

In 2006, LexisNexis acquired the Concordance software properties and went through a few fits and starts trying to modernize the platform for native electronic files. In 2018, Lexis decided to sell the Concordance Suite to cloud pioneer CloudNine who recognized the brand would be a compelling sibling offering to their cloud-based SaaS product already on the market.

> *Concordance Desktop offers the ability to create production sets accompanied by load files since Concordance was the progenitor of this file standard.*

Throughout the evolution of the Concordance brand, there have been several offerings for hosted platforms (the old FYI) and other options, but this review will focus on the Concordance Desktop software that combines technology from Concordance, Concordance native viewer, and FYI into one installation and easy-to-use application.

Importing and Viewing Your Documents
Opening a database in Concordance Desktop may bring a twang of nostalgia for anyone that has previously used Concordance software over the last several decades. While the basic interface may look familiar, the application has incorporated several significant improvements including a new import wizard that accepts native electronic files in addition to the traditional load file. You can now bring in native Microsoft Word documents, PowerPoint presentations, and even PST email collections. If you import a video or audio file, Concordance will insert a placeholder in the database where you can click to open the original file locally.

Concordance Desktop still has the useful "Browse View" where you can see the metadata fields populated for a single file or record. By default, you only see the fields that contain a value, but you can always click the Tools menu and opt to show the "Empties" which is an excellent way to perform a quality check on the files.

When you're in "Table View," you can sort the files by any column. You can also highlight a series of rows and right-click to send the highlighted rows to either a Microsoft Excel spreadsheet or into a CaseMap database. Lastly, long-time Concordance users will be thrilled to hear that the Tally capability is still available allowing users to quickly view a list of all unique values in a particular field or column, and turn a selected category into a search results set by double-clicking on a category.

Choose Your Method of Searching
One of the most significant features of Concordance has always been the ability to quickly search through a list of records and files. Once the database is indexed, you can use the Quick Search Bar or the search panel on the left to conduct a

> " *eDiscovery veterans will already know the name Concordance, but all litigators today operate under its pivotal legacy whether they realize it or not.* "

Simple Search, a Form Search, or an Advanced Search. For any search you perform, you have the option of combining it with a "Persistent Search" or determining if you want the search results to include email and attachments family members.

The Simple Search allows the user to search for a word or phrase in a document which gets highlighted for easy spotting. Concordance Desktop offers a few options where you can search for all of the words, the exact phrase, or where at least one of the words you type is found.

The Form Search is also known as "Query by Example" where dropdowns allow you to narrow and focus your search. There's also a "Dictionary" button which brings up a list of all the words found throughout the database – this is helpful if you are unsure of the exact spelling of a word, or if you're not sure of the exact format of the word (e.g. run, running, runner, runs, etc.) within the data.

Lastly, the Advanced Search provides a number of options and also features an automatic Tally at the bottom. You can always return to a past search and rerun that search, and Concordance Desktop assigns numbers to each search so that you can easily combine multiple searches as necessary.

Tagging and Coding
Concordance Desktop provides a simplified approach for organizing documents with a series of Tags which can be structured into Folders. For example, you can bring up the Tags panel on the left side and create a new Tag or Folder and name it "Issues" with a sub-tag called "Financial." When you come across a document that is relevant to the financial issue, you can apply that Tag. When you need to view only those documents with the financial Tag, you can right-click on the Tag and select "Create Query from Tag."

You can also create "personal" folders for your work, but you always have the option of dragging the tags in a personal folder into the public view so that others can see them.

When you're viewing the metadata of a file in the Browse View, you also have the option of clicking the "Edit" button in the menu bar, allowing you to modify or add to the information associated with that file. For example, you can add information such as a note or other comments that would be helpful to view or search for later. Another use for Edit would be to select categorizations from an "authority list" of values that can be exported later as part of a privilege log.

Concordance Desktop Viewer

Most attorneys are interested in viewing the files as soon as possible, and that's where the Concordance Near-Native Viewer comes into play. Longtime users will remember the Opticon software for viewing images, but Concordance Desktop users enjoy the newer document viewer that provides tools for navigation, zoom, rotation, markups, redactions, and more.

The Concordance Desktop Viewer is a separate window that can be moved around on the screen as needed by the user. Most of the window is dedicated to showing the document image, but the right panel displays the list of "Document Information" which typically shows all of the metadata associated with the file.

On the far left of the window you can find tools for adding drawings, highlights, redactions, stamps, and other markups. If you choose, you can also bring up a small panel to view the thumbnails of each page in a document. When a page contains a redaction, there will be a small, red exclamation point next to the thumbnail to highlight pages with markups. Lastly, if you're interested in tracking who applied redactions or other markups to the document, you can open the "Markup History" tab.

Document Productions and The Admin Panel

As expected, Concordance Desktop offers the ability to create production sets accompanied by load files since Concordance was the progenitor of this file standard. Users can accept the standard Concordance defaults for load file formats or customize to their own needs.

And because the role of a Concordance database administrator is so important, there is an Admin Console tab that provides backroom options for managing users, scheduling re-occuring jobs (e.g. re-indexing), and updating licenses in the application.

Who Is CloudNine?

CloudNine has been around since 2002 and headquartered in Houston, Texas. The company started out primarily as a litigation services company, but today their core focus is to simplify all the tasks associated with discovery through data insight and legal intelligence. In addition to the company's cloud-based platform for data processing, review, and production, they also offer on-premise software products including CloudNine LAW, Explore and Concordance.

Why You Should Consider CloudNine Concordance Desktop...

- ▸ With the acquisition of the Concordance Desktop software, CloudNine now has the ability to offer a powerful hybrid of both on-premise and off-premise software to fully support any customer need in regards to eDiscovery.
- ▸ Customizable viewing options including a "Split Screen" menu feature.
- ▸ You can choose the color for document redactions and associate a reason for the redaction. The redaction will stay transparent in the database until a new file is made during production and the redaction is burned-in.
- ▸ The new Admin Console allows database administrators to "broadcast" messages to all active users informing them about changes in the database.

> **When you're in the "Table View," you can sort the files by any column. You can also highlight a series of rows and right-click to send the highlighted rows to either a Microsoft Excel spreadsheet or into a CaseMap database.**

Try Out CloudNine Concordance Desktop For Yourself!

Visit cloudnine.com for more information and to request an online demonstration of CloudNine Concordance. Check out the case study to learn how Concordance helped simplify the e-discovery workflow for a firm's entire litigation portfolio.

cloudnine™

When Selecting an eDiscovery Software Provider, There is One F-A-C-T to Keep in Mind

Doug Austin,
CloudNine
www.cloudnine.com

Hi, I'm Doug Austin and I'm VP of Products and Services at CloudNine. I'm also Editor of the eDiscovery Daily blog, the only daily blog of eDiscovery news, trends and best practices. I'm grateful to Brett Burney and Chelsey Lambert to once again be asked to write an article to be included in this year's eDiscovery Buyer's Guide. There are a lot of great products being discussed in this year's guide CloudNine Concordance®.

Each of the products in this guide have numerous features and capabilities that can help you do your job better as a legal professional. There are so many capabilities to compare, it's enough to make your head spin. So, how do you differentiate the providers and select a solution that's right for you? Let's take a look.

Consider Looking at the EDRM Model a Different Way

If you're an eDiscovery professional, you're undoubtedly familiar with the Electronic Discovery Reference Model from EDRM – it has become the standard model for the workflow of the process for handling electronically stored information (ESI) in discovery. On the left-hand side of the model, you'll see the Information Governance phase, which is the one phase that is not specifically related to the case – it is perpetual, which is why it is the only phase represented as a circle in the model.

Once litigation or investigation has begun (or is reasonably anticipated), you must begin by **identify**ing and better understanding potentially responsive ESI. You then need to **preserve** and collect that ESI for use in the case and you typically need to **process** that ESI (to cull duplicative or clearly non-responsive information and to convert the ESI into a suitable form for review), **analyze** that ESI for patterns and to identify key information and, of course, **review** that ESI to make responsiveness and privilege determinations (among other things). Ultimately, you need to **produce** responsive, non-privileged ESI to opposing parties during the process and **present** key ESI at depos, hearings

and trials to hopefully help result in a successful outcome for the case.

We all know that. But, is that the right way to think about the EDRM model? How about thinking about it this way?
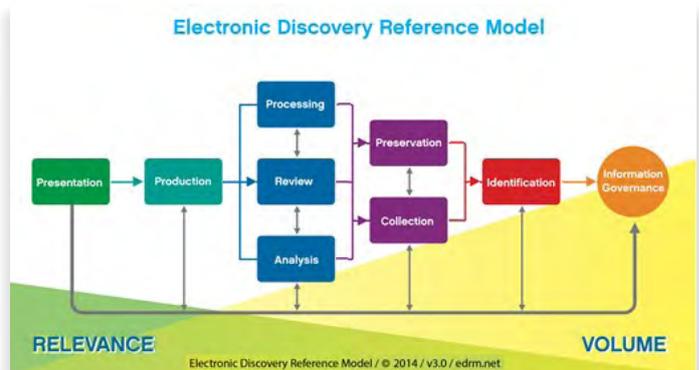
Notice anything different about this version of the model? Yep, this one is backwards. When planning for your eDiscovery project, it's often best to work backwards and start with the goals to be accomplished for the end phases and use that to guide your work at the beginning of the process. Believe it or not, the decisions you make and the actions you take at the beginning of the cycle can considerably impact the outcome of the case – you can lose the case right there if you fail to identify, preserve and collect the ESI needed for production and presentation. So, for the ESI that you plan to present, you'll need to identify that ESI (and determine whether it's in your possession or you need to request it from another party), and you'll need to determine what ESI you need to preserve and collect to meet your production obligations. The volume of data that you expect may drive review decisions such as how many reviewers you may need or whether you should consider using Technology Assisted Review to conduct your ESI review. So, by starting "backwards" and determining your end goals, you can plan for your activities through the life cycle of the case.

When it comes to eDiscovery software selection, those same principles apply – you want to keep the end goals in mind for your cases when selecting software products. Electronic discovery is all about workflow management and to manage workflow effectively, you need to select a combination of products that can help automate and streamline that workflow to the extent possible to help you reach those goals at the end of a case in an efficient and cost-effective manner.

Just the F-A-C-T, Ma'am

There was a TV cop show in the 50's and 60's called Dragnet, with a no-nonsense character named Sergeant Joe Friday, who when interviewing a witness in an investigation would keep the interview subject from providing unimportant details by stating "just the facts, ma'am". He had a great way of getting to the facts of a case quickly and getting it solved – all within 30 minutes! If only real-life criminal investigations could be solved that quickly!

Like criminal investigations, selecting an eDiscovery software provider can be complicated (okay, it's an odd analogy, but work with me here). With so many features to evaluate and consider, it can be confusing to decide which provider is right for you. So, just like Joe Friday sticks to the facts to solve a case, perhaps you should consider sticking to the "F-A-C-T" to differentiate and select eDiscovery software providers. By "F-A-C-T", I mean the following attributes that a provider should have: Flexibility, Adaptability, Community and Technology. F-A-C-T, get it? Let's take a look at each one of these factors:

Flexibility: Some organizations prefer for their software platforms to be located on-premise inside their firewall, where they have control over the software and access to it. Other organizations prefer to reduce infrastructure by choosing a cloud deployment model for their software. However, their cloud preference could vary – some organizations would prefer a private cloud solution over a public cloud solution. Even if they prefer a public cloud solution, they may prefer to deploy in their own public cloud environment instead of paying for someone else's public cloud. Deployment requirements can vary even within an organization or evolve over time. Does the software provider force you into a specific deployment model or are they flexible to support the deployment model that's right for you? Consider selecting a provider that offers solutions that are flexible to different deployment models, so that you don't have to worry about switching providers if your deployment needs change.

Adaptability: Remember when I said that electronic discovery is about workflow management? With eight eDiscovery phases to migrate ESI through during the course of a case, that ESI is likely to pass through multiple software products during that life cycle. These "data hops" result in inefficiency that drives up costs and leads to mistakes during the process. There are no products out there that handle all eight phases (or at least handle them all better than anyone else does), so eDiscovery professionals tend to take a "best of breed" approach to piecing together their eDiscovery software solution, selecting the product that they feel works best for each phase (or group of phases). Does the software provider offer a closed solution that includes only their technology or are they adaptable to support a workflow that includes other products as well? Consider selecting a provider that is adaptable to support automation of a variety of workflows, using a variety of products (even if some of them aren't their own products).

Community: Every software provider offers support for their product and they can explain the "nuts and bolts" of how the product works and relay the identification of software "bugs" to the product development team to address in a subsequent release or "hot fix" to the product. But, where do you go for best practices in using the product from people who actually use it to support the same tasks and functions you do? That extends the support of the product to an entire community of users who can help each other learn how to get the most out of the product. Is the software used by a large number of customers and does the provider offer avenues for information sharing with that customer base? Consider selecting a provider that promotes user community interaction through provider partners, user groups and user meetings/conferences to enable you to get that next level of product support and maximize the benefit to your firm.

Technology: Some solutions use proprietary technology while others use technology that can more easily plug and play with other products, such as dtSearch or SQL Server. As needs evolve for organizations, the ability to share your data with other programs that add value, such as analytics and business intelligence (BI) products enables organizations to maximize the value of the data they're collecting and improve decision making. Again, no provider offers the best solution for every need, so the ability to provide an API and enable the data to be used by other products is key. Does the software provider use proprietary technology or are they "technology-friendly" and support the ability

for other products to work with your data through API connections? Consider selecting a provider that is technology-friendly and can support extending the functionality of working with your data to other "best of breed" products.

When you're evaluating all of the terrific products in this guide, keep these two considerations in mind: 1) Look at the EDRM model backwards to define your end goals for managing eDiscovery and use those factors to help define your criteria for eDiscovery software selection, and 2) Keep one F-A-C-T in mind to help differentiate providers and select one that enables you to maximize the value of the software you select. Good luck in your search!

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Doug Austin is athe Vice President of Products and Professional Services for CloudNine. He is responsible for managing corporation operations and as well as guiding all professional services assistance for clients of CloudNine. Prior to joining Cloudnine, Doug served as project and platform manager for a large electronic descovery provided for over eleven years. Doug is alos the editor of the CloudNine sponsored e-Discovery daily blog, which has become a trusted resource for e-Discovery news ans analysis and is an EDRM Education partner. Since its inception in 2010, e-Discovery Daily has published over 1,350 lifetime posts regarding e-Descovery case law, trends and best practices, which has included case law for over 300 unique cases.

Digital WarRoom® Pro
AFFORDABLE, PRACTICAL DESKTOP
SOFTWARE FOR DATA PROCESSING, REVIEW,
AND PRODUCTION FEATURING A COMPLETE
EDISCOVERY TOOL SET FOR LAW FIRMS

Click to view a short video review
of Digital WarRoom on YouTube.

Recent Developments and Updates

▸ **Powerful Under-the-Hood Improvements for Migrating Matters to the Cloud.** Customers can start with Digital WarRoom Pro on their desktop (download with a credit card!) but once your matter becomes large and unwieldy, you can easily migrate to the cloud boasting more horsepower and capacity.

▸ **Improved Methods for Organizing Your Data Collections.** You can still drag-and-drop your electronically stored information directly into Digital WarRoom, but now you can edit the folders and organize them to get a much better grasp on what data you've loaded into the system.

▸ **The "Filter Tree" was Reorganized for Quicker Access to the Documents You Need.** The powerful "filtering" options on the left panel have been tweaked for easier navigation.

▸ **Revamped Redaction Tools and Privilege Log Features.** The redaction engine has been modernized so that users can easily redact specific portions of an image or document. When documents are marked as privileged they are automatically entered into a privilege log along with the reviewer ID.

Digital WarRoom® Pro
AFFORDABLE, PRACTICAL DESKTOP SOFTWARE FOR DATA PROCESSING, REVIEW, AND PRODUCTION FEATURING A COMPLETE EDISCOVERY TOOL SET FOR LAW FIRMS

A traditional "war room" is used by the military to plan for battle. A legal "war room" is used by a litigation team to plan for trial. Digital WarRoom® is a software platform for anyone who needs to plan a comprehensive attack on the processing, review, and production of electronically stored information (ESI).

Digital WarRoom® offers solutions for any size matter starting with the desktop software option called Digital WarRoom® Pro that allows law firms to DIY their document processing, document filtering, review tagging, privilege log management, creating productions, deposition preparation, etc. There are not many desktop software options available in the eDiscovery market today but Digital WarRoom® continues to fill that important gap.

When your eDiscovery needs grow bigger than your desktop, Digital WarRoom offers stable hosting options for either a single matter, or an extensive Private Cloud infrastructure for multiple matters

that can be deployed as a firm-wide solution to host hundreds of GBs of data with unlimited users and unlimited databases. The best part is that a move from the desktop to the private cloud is seamless because the user experience is virtually the same.

> **" If you're familiar with Microsoft Outlook's interface, and you're halfway acquainted with sorting columns in Microsoft Excel, you will have no problem in navigating the interface of Digital WarRoom® Pro. "**

Desktop Software

Digital WarRoom® has always offered a cloud-based hosting environment, but the company decided to offer an introductory-level product for a group of customers they found still needed the power of Digital WarRoom, but only had one or two cases where they could use the software. That's why they developed Digital WarRoom® Pro, although customers can easily transfer cases to the hosted environment when they outgrow the desktop software.

If you're familiar with Microsoft Outlook's interface, and you're halfway acquainted with sorting columns in Microsoft Excel, you will have no problem navigating the interface of Digital WarRoom® Pro.

The only caveat with the desktop software is that you'll need to supply some of the other utilities and software tools to ensure you can use all the features of Digital WarRoom® Pro. This is one of the ways the company keeps the costs low – the annual license only costs $1,795 – plus you're supplied with an hour of installation support and another hour of free training.

The Digital WarRoom® Pro installation requires Microsoft SQL Express (a free download), and the computer will need a copy of Microsoft Office and Microsoft Internet Explorer (which is not a problem for any office running Windows computers). Beyond that, there are just a handful of free downloads you'll need for image viewing and PDF conversions. Again, Digital WarRoom will work with you directly to get it all set up.

Uploading & Processing

Getting data into Digital WarRoom is as simple as dragging and dropping, so when a client sends you a PST file, you can drag it directly into your instance of Digital WarRoom Pro. Just be aware that the data processing stage will take time and potentially strain your computer's resources. The data indexing and OCR functions are very processor intensive and

not designed to run on a consumer class desktop computer. That's why so many service providers (including Digital WarRoom) manage large server installations, which can more quickly churn through the data processing stage.

Next, Digital WarRoom allows you to apply a "Policy" to your data before shifting it over to the Review side. The Policy wizard walks you through each step. For example, if you have data from five custodians, but only want to start reviewing the most important individual, just set your Policy appropriately. Plus you can further narrow down your data by keywords, date ranges, file types, and variety of other options. You can always go back and pull more files over to Review when you're ready. Unfortunately, many firms just yank everything over to Review without applying a Policy, which means they waste a lot of time getting overwhelmed with junk they don't need to be looking at.

Browse & Review

Once you pull over your selected data into the Review side, you'll see a nicely formatted panel on the left that allows you to filter out specific pieces and parts of your data. For example, you can elect to only look at specific data from custodians, or a specific file type, etc. On the right side, you'll see your list of documents which you can customize by adding or removing specific columns of information.

Documents in the list that have no coding applied (no decision made on them) are shown in bold, while coded documents are non-bolded. This is a helpful visual cue and similar to how read and un-read messages appear in Microsoft Outlook.

Digital WarRoom provides a simple yet effective document viewer where you can choose to see the native file, or a rendered image of the file. Anytime someone looks at a document, applies coding, or adds an annotation, Digital WarRoom tracks those actions. This is helpful for teams to double-check their work.

> *Digital WarRoom allows users to set up an unlimited number of "Binders" where they can organize documents. Just be sure to add a note when you set up a Binder to explain what the Binder contains so that it can be referenced later.*

Digital WarRoom allows users to set up an unlimited number of "Binders" where they can organize documents. Many users take advantage of this for things like "Hot Documents" or even simply "John's Favorite Documents" - you can use anything that will help the litigation team better organize the documents as you read through them. Just be sure to add a note when you set up a Binder to explain what the Binder contains so that it can be referenced later. You can even use a Binder to collect documents that need to be exported or produced.

Exports & Productions

Finally, Digital WarRoom® Pro offers a seamless workflow for creating production sets that anyone can accomplish as long as you follow the steps provided in the Production wizard.

The first step is to find the collection of documents that you intend to use for the production set, and then Digital WarRoom will group them into a "draft" production set. Next, you'll walk through each step in the wizard as you choose the production format (PDF, TIFF, etc.), apply Bates numbers, or any other necessary endorsements.

Fairly new to Digital WarRoom® Pro is the ability to embed a watermark on the documents to be produced. Instead of having a "confidential" stamp at the bottom of each page, this could be applied as a watermark.

Conclusion

While Digital WarRoom® offers a multitude of service levels for firms and matters of all sizes, the Digital WarRoom® Pro software is one of the few desktop solutions still available on the market. If your firm has a specific rationale for using a desktop solution, then Digital WarRoom® is an excellent option.

Why You Should Consider Digital WarRoom Pro...

▸ One of the only functional and modern-day desktop software solutions available in the eDiscovery market backed by Digital WarRoom's hosted options should you outgrow the desktop software.

▸ Valuable "Who to Whom" visual component showing who was sending emails to specific individuals.

▸ The "Work Product Palette" can be completely customized with the applicable tags and coding that reviewers can apply to the documents.

▸ Distinct "Filter Tree" for quickly selecting documents based on file types, custodians, Binders, and more.

> **"** *Updated redaction tools allow users to easily redact specific sections of a document or image.* **"**

Try Out Digital WarRoom For Yourself!
Visit www.digitalwarroom.com for more information and if you visit this special link, you can get an EXTRA 5 hours of training included with your purchase of Digital WarRoom® Pro, in addition to the 2 hours that's already included!

DigitalWarRoom

EDT

COMPLETE EDISCOVERY MANAGEMENT FOR LITIGATION MATTERS AND INVESTIGATIONS EMPLOYING A SHARED DATABASE & OFFERING MULTIPLE OPTIONS FOR DEPLOYMENT BOTH ON-PREMISE AND IN THE CLOUD

edt. | Discovery Simplified.

VIDEO REVIEW

Click to view a short video review of EDT on YouTube.

Recent Developments and Updates

▸ **Automated Processes for Checking Out Batches of Documents for Review.** A new "batch interface" was introduced as part of the Automated Review Workflow that allows paralegals and review attorneys to easily check out batches of documents, perform their review, and check the batches back in again.

▸ **Updated Reporting tools for Tracking Review Progress.** Paralegals and case administrators can now easily track progress in the Automated Review Workflow using the new Report interface.

▸ **Option of Running EDT in a Cloud Platform of Your Choice.** The edt.BLUE option is a platform-as-a-service (PaaS) that provides you with a complete EDT software environment in a dedicated cloud deployment of your choice.

▸ **Better Define the Access Rights of Your Litigation Team.** In addition to "Groups" and "Users," case administrators can now define "Roles" for those individuals who need a specific level of access to a matter.

EDT
COMPLETE EDISCOVERY MANAGEMENT FOR LITIGATION MATTERS AND INVESTIGATIONS EMPLOYING A SHARED DATABASE & OFFERING MULTIPLE OPTIONS FOR DEPLOYMENT BOTH ON-PREMISE AND IN THE CLOUD

edt. | Discovery Simplified.

"eDiscovery doesn't need to be complicated" is the mantra you'll hear from EDT. They develop their software around the straightforward idea that it should be easy-to-use and fully integrated into a single platform.

Even more, EDT designed their platform to allow attorneys to approach litigation from an investigative angle, rather than as a technical data scientist. In other words, attorneys are seeking the who, what, when, where, and why about the facts of a litigation matter, but that's difficult to do when you're forced to focus on fabricating blind keyword search terms or applying advanced filters before you even know what's in the data.

Founded in 2002 by Australian lawyer and computer scientist Jo Sherman, EDT quickly employed an effective team of lawyers, software engineers, and forensic experts all focused on designing an exceptional e-discovery platform. Today, EDT can be deployed on-premise or as a "portable" option for on-site projects, as well as hosted by accredited partners and a unique platform-as-a-service (PaaS) through edt.BLUE.

Getting Data into EDT
Getting data into EDT can either be done with

the assistance of EDT professional services, or customers can use the EDT Loader software to ingest it themselves. You can pull in data by folders or files, specify custodians, and access a few other options for ingesting and processing data.

As soon as the data starts coming in, EDT immediately generates a helpful visual to suggest individual custodians and provides filters so you can instantly start to understand the data collection. As you apply filters to the data, EDT produces an "estimator" at the bottom to summarize what you're looking at – the number & page counts of the documents, the data size, how many boxes the printed version would fill, and more. Even more helpful, you also get a sort of "budget calculator" that estimates the cost of a document review if you kicked if off with your current filter set.

> *EDT allows attorneys to approach litigation from an investigative angle, rather than as a technical data scientist.*

Analyze and Prioritize Before You Review With Your Eyes...

All of this action happens in the essential "Analyze" section of EDT. Normally, a litigation team would have to wait until all of the electronically stored information was completely processed before they could start to search for keywords or examine email domains, etc. But EDT is designed to allow attorneys to investigate the data set before you have to commit to keyword search terms, or settle for reviewing a dataset full of time-wasting junk.

EDT is designed to allow you to conduct your early case assessment/early data assessment in the "Analyze" stage before you commit to the actual document-by-document review. You can actually "test" your keywords in the Analyze section to see what words are effective, and which words require additional consideration. For example, in a contract dispute, the word "contract" will probably return an overwhelming amount of hits that have nothing to do with the "dispute" part of the issue. But in the EDT Analyze section, the team can spend time experimenting with different terms and proximity connectors (within so many words) to better understand how to craft more targeted search terms to focus on the more relevant documents.

The Analyze section of EDT offers a variety of methods for scrutinizing the data by file type, date ranges, duplicates, etc. You're not eyes-on reviewing any data yet, but simply analyzing the data to help you gain insight into the contents of the data set before committing to a traditional document review.

Another helpful tool in the Analyze section is the ability to understand email aliases and "normalize" the names in the document collection. This is a powerful way to reduce time and confusion in a document review, but it's frequently overlooked. When you see messages that come from "Outlook Migration Team" or "Schedule Crawler," they're most probably server-generated notifications which you can excerpt from your review collection.

In a similar vein, every litigation team should take advantage of the ability to "normalize" the various

> **"** *Conduct your "early data assessment" in the "Analyze" section before you commit to the actual document-by-document review.* **"**

email addresses that are usually found in an email collection. Most attorneys assume there's a single email address for each individual/custodian, but unfortunately that's not how email always works, and that causes infuriating confusion in a document review. For example, Bill Rapp could have an email address of bill.rapp@enron.com or brapp@enron.com, willam.rapp@enron.com plus a few additional odd-looking "internal" email addresses like "Bill Rapp/HOU/EES@EES." If you search for one email address, the others won't come up, thus leaving your search inconsistent and limited. When you "normalize" the different email addresses in EDT's Analyze section, you're basically informing EDT that all of these different email addresses belong to the same individual/custodian so that your searches and filters are accurate before you promote any data over to the "Review" stage of EDT.

Also noteworthy is the fact that you can apply tags in the Analyze section that will carry over into the Review section. When you find a group of emails or documents that need special attention in Review, or can be marked as privileged, you can apply a bulk tag that carries through the project.

Document Review With A Focus

The Review section of EDT is similar to what you might expect from other review platforms, except of course, you're only looking at data that you've pre-filtered and pre-screened so you're not wasting time looking at irrelevant junk.

As you start moving through the Review section, you can organize documents by folders, although documents can only exist in one folder at a time so this is an effective method for isolating or segregating documents when necessary. You can also organize documents by "Sets" which are not limited in the same way – a single document can live in multiple "Document Sets." For example, you might set up a Document Set for each witness, and a key document may need to exist in each of those Sets for quick reference.

The "Quick Search" and "Advanced Search" tools are built right into the primary interface, so there's no need to jump into a different window or section. Clicking the Advanced Search option brings it down from the top of the screen and you can easily save any search so it can be retrieved at a later time. You can also use the search parameters to generate batches for reviewers to tackle.

To open a document, simply select it from the list to pop open a clean interface with the document on one side and the multi-use panel on the right.

You have several options for viewing the contents of a file including Text, Near-Native, PDF, TIFF, and Markup. The Text view is a simple HTML5 rendering of the file, and the Near-Native view shows you what the document would look like if it was opened in the application in which it was created. If you need to redact or annotate a document, you can do both on the "Markup" tab, even without a requirement to convert the file to an image first.

The right panel of the document viewer appears sparse at first glance, but there is a wealth of functionality hidden under the dropdown options. For example, you can have a "first pass" coding panel for reviewers who may only need to quickly tag a document as relevant or privileged. A "second pass" coding panel can have more intricate options for applying more specific tags to each document. The same dropdown in the right panel also provides quick access to see related documents, and the history of any action taken on that document (when someone opened it, tagged it, etc.).

Lastly, EDT offers a powerful "Document Content Comparison" tool that reveals differences between documents – whether text has been added or deleted.

Productions
The EDT platform offers all of the options that you would expect for creating production sets in native format or standard load files. There is a full audit trail available so you can track all of the activity in this area, along with flexible options for assigning bates numbers and production set numbers.

Why You Should Consider EDT...
▸ EDT pricing subscriptions are affordable, fair, and include all hosting fees, user licenses, processing costs, and more.
▸ Multiple options for deploying the software on-premise and portable solutions, as well as hosted by a service provider or a platform-as-a-service (PaaS) through edt.BLUE.
▸ Customizable visual analysis tools and filters for document concepts and email communications.
▸ Ability to "normalize" the various email addresses and aliases that are routinely found in email collections.

> " *The "Document Content Comparison" tool reveals differences between documents – whether text has been added or deleted.* "

Everlaw

FULL-FEATURED DOCUMENT REVIEW
PLATFORM IN THE CLOUD ENHANCED WITH
INTEGRATED TOOLS FOR CASE ANALYSIS
AND CHRONOLOGIES

Click to view a short video review
of Everlaw on YouTube.

Recent Developments and Updates

▸ **Document Review Window Displays Updates and Speed Improvements.** Users can now scroll continuously through entire documents in both the PDF and image views in Everlaw without the need to click the "Next Page" button. Users can also use keyboard shortcuts to navigate through documents. Everlaw also now boasts a proprietary PDF viewer that loads PDF files faster resulting in less time required for review.

▸ **StoryBuilder® Chronology Design Refresh and StoryBuilder® Outlines enhancements.** The StoryBuilder® Outlines now enjoys a fresh and more consistent visual design. You can now hide and show descriptions and metadata with a new Settings icon. You can also use rich text formatting in StoryBuilder® Outlines along with bullet lists and more.

▸ **Project Templates.** Case administrators can now streamline the creation of new projects with the option to include all users and settings from a previous project.

▸ **More Control Over Security and Access Permissions.** Case administrators now have more options for user access so they can control what outside experts or co-counsel see in a matter..

Everlaw

FULL-FEATURED DOCUMENT REVIEW PLATFORM IN THE CLOUD ENHANCED WITH INTEGRATED TOOLS FOR CASE ANALYSIS AND CHRONOLOGIES

It's amazing how cloud-based review platforms have evolved over the last several years. Not because they're becoming more like "traditional" software offerings that have been around for decades, but because they excel in managing today's electronic evidence (email, social media, mobile data, etc.) and they are more flexible in providing unique and useful tools that just aren't possible in conventional software settings.

An excellent example is Everlaw, which is a remarkable replacement for legacy document review platforms, but also offers tools for case analysis and trial preparation along with an exceptional predictive coding system. In the past, this would require three separate pieces of software sustained by multiple servers and extraneous infrastructure.

Everlaw offers everything you need to review, tag, code, and search electronic data presented in a streamlined interface. You also have access to a unique drag-n-drop, visual search tool and their massively useful StoryBuilder® structure.

The company behind Everlaw places a strong emphasis on ensuring that their customers have the best user experience possible and frequently updates the platform based on user feedback.

Logging into Everlaw brings you to a matter's homepage, or what I like to call the "dashboard." Small, colorful, rectangular "cards" are arranged in categories for Searches, Binders, Document Sets, Document Batches, and more. The entire screen can be rearranged so that your "favorite" cards are easier to find and open.

> " *Everlaw is a remarkable replacement for legacy document review platforms, but also offers tools for case analysis and trial preparation. In the past, this would require three separate pieces of software sustained by multiple servers and extraneous infrastructure.* "
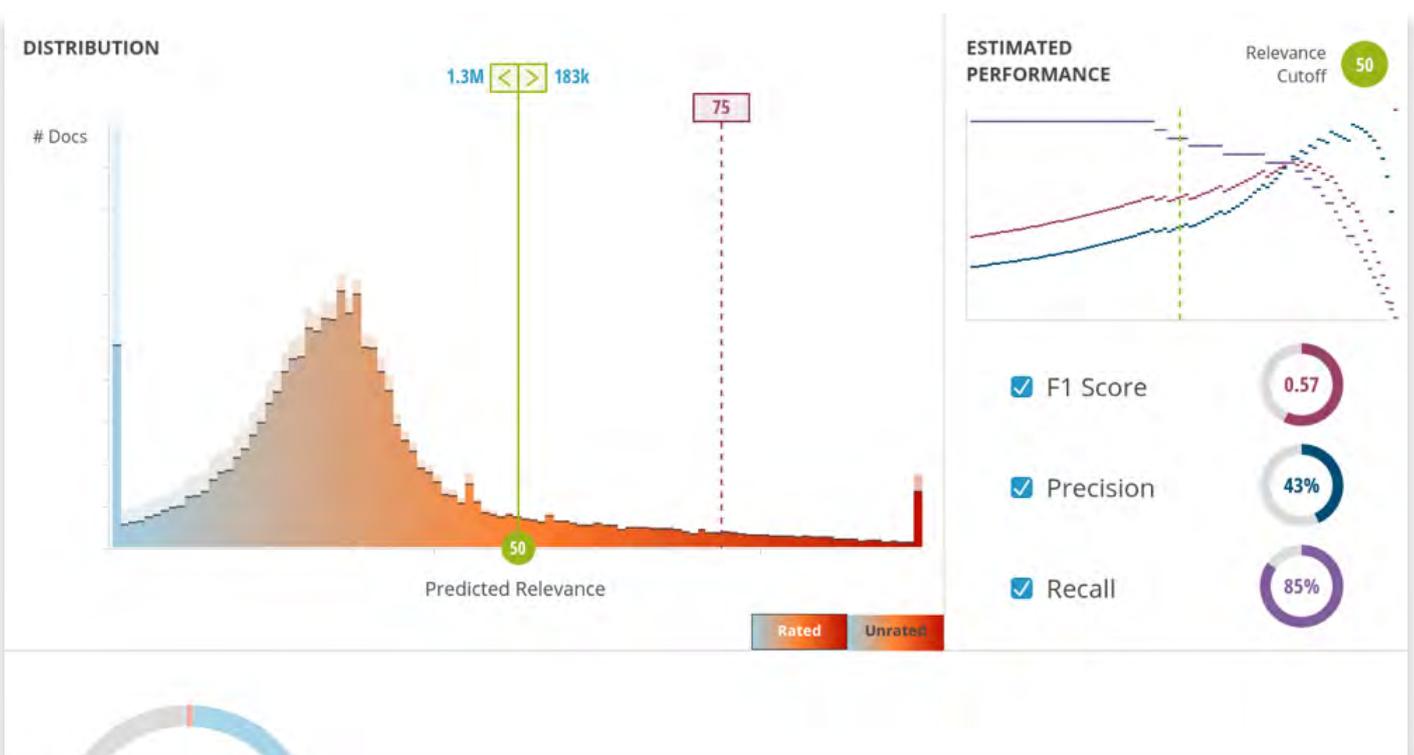
Upload & Processing

In true SaaS fashion, users can upload data to Everlaw by dragging and dropping files into their browsers. It's as simple as uploading a picture from your computer to Google Photos.

Alternatively, Everlaw learned that many law firms now receive data from clients shared with them through cloud storage services like Dropbox, Box, and Google Drive, so Everlaw now has buttons at the bottom of the screen allowing firms to connect directly to those services. There's also an option for pasting in a direct link to a location where data is shared.

Everything uploaded to Everlaw gets processed in the back end, which includes creating PDF renditions of every document to ensure that they can be viewed instantaneously. You can always get back to the original file.

All of the data processing is done in a serial fashion, so that as soon as the first files get processed a customer can start looking at them while the rest of the batch continues to be processed.

Once finished, you can access a graphical, friendly report on all the data that was uploaded and processed.

Search

There are several ways you can approach your document set, but most users will start by searching the files.

If you're arguing with the other side on what search terms to use, you can upload a list of terms to Everlaw to receive a "Search Term Report." This can be immensely helpful in convincing the other side that their requests for certain terms are extravagant and burdensome. These reports can be downloaded as PDFs.

> **" Everlaw offers everything you need to review, tag, code, and search electronic data presented in a streamlined interface. You also have access to a unique drag-n-drop, visual search tool and their massively useful StoryBuilder® structure. "**

Everlaw offers an exceptional search tools called "Visual Search" where users can build advanced, intricate search strings for their data in a drag-n-drop interface. You can drag colored fields into the main search pane that depict the different pieces and parts of the files you need to search.

For example, under the "Document" section you can drag over the "Contents" field if you intend to search all of the contents of your documents. But if you would only like to search the content of email messages, you can also drag over the "Type" field and set that to "Email" to narrow down your search.

Not only is this an innovative, interactive, visual search builder; but as you build your search, Everlaw immediately presents you with an "Instant Search Preview" list at the bottom of the screen so you can see exactly how many files are being returned based on your search. The list updates as you add more parameters to your search - most platforms require you to type in a search, hit return, and then wait for the results. Everlaw once again puts the focus on users since there's no waiting period.

When you're satisfied that your search has brought up what you expected, you can click the blue "Begin Review" button to jump into your documents and start reviewing them.

Viewing Documents

Clicking a document opens it in a new tab in your web browser. If the document is in the list based on a search you ran, the document viewer shows the number of "hits" found in your document and highlights the words in your document.

Above the main document window, you can see pieces of the document's metadata. If you need to see more, there's a dropdown arrow you can click.

On the left panel, you can pull up a variety of different related documents such as a list of duplicates/near duplicates, document attachments, and the location of the particular message in the conversation thread.

Below the document you'll find the coding panel. It's small by default but it can be made larger when needed. All of these panels can be customized so you can see as much or as little information as you need. And since Everlaw thinks about their user interface so much, you can even put your web browser into full screen mode which further streamlines the interface.

Excellent Tools for Excel, Audio, and Video

Excel files don't appear in every litigation matter, but when they're involved they can be frustrating to review. Everlaw has developed tools to ensure lawyers can easily view Excel spreadsheets, view the underlying data and formulas in cells, and even offers the ability to redact specific sections of the spreadsheet. If you regularly have to wrestle with Excel spreadsheets in your litigation matters, you won't find many other platforms that can handle those files better.

But Everlaw doesn't stop there - they've also built in a transcription tool for audio and video content. When you upload an audio file or video, Everlaw will automatically transcribe the content into searchable text. Think of it as similar to voice recognition software - it won't always be 100% accurate, but it can be invaluable for searching multimedia files. You can navigate to any part of the transcript and the platform allows you to start playing the video or audio from that point.

StoryBuilder®

As you start reading through your documents and find relevant items, and even "hot" documents, you can add them directly to Everlaw's StoryBuilder® tool where you can add notes, build a chronology, and develop an outline as you prepare for depositions, motion practice, or other litigation activities.

The StoryBuilder® tool allows you to associate a document with issues in your case. You can also start building a "Master Chronology" that can be sorted or filtered as needed. Even better, the entire StoryBuilder® tool can be accessed by other members of the litigation team so you can all collaborate on the same outlines and chronologies simultaneously.

Production

Production sets are easy to create in Everlaw and you can produce files in multiple forms if requested. A walk-thru wizard sets you up to add Bates stamps

or other endorsements, choose what fields of information to include in the set, and configure every other aspect of the production, from redactions to privilege logs.

Who Is Everlaw?

Originally dubbed EasyESI when the company was founded in 2011, the company and platform was rebranded as Everlaw in 2014. The company is based in Berkeley, CA and regularly recruits top technical talent from the area.

Why You Should Consider Everlaw...

▸ The StoryBuilder® tool is an integrated feature for analyzing your case information, notes, issues, timelines, and chronology.

▸ Predictive coding tools baked in to Everlaw continuously update themselves based on your decisions on documents, and present the results in an easy-to-see graph of "relevant" and "irrelevant" files.

▸ All audio and video files are transcribed in Everlaw so that the text of those multimedia files can be searched.

▸ Unique visual search pane that provides an "Instant Search Preview" list of documents immediately at the bottom that gets updated as you add search terms.

> ❝ *Everlaw has also built in a transcription tool for audio and video content. When you upload an audio file or video, Everlaw will automatically transcribe the content into searchable text. Think of it as similar to voice recognition software - it won't always be 100% accurate, but it can be invaluable for searching multimedia files.* ❞

Try Out Everlaw For Yourself!
Learn more at Everlaw.com!

everlaw

GoldFynch

CLOUD-BASED DOCUMENT REVIEW
PLATFORM WITH ZERO LEARNING CURVE
AND AN EXTRAORDINARY PRICING
STRUCTURE FOR SMALL & MIDSIZE FIRMS

GoldFynch.com
e-discovery, simplified

VIDEO REVIEW

Click to view a short video review
of GoldFynch on YouTube.

Recent
Developments
and Updates

▸ **Notes for Tags.** You can now attach notes to files
through tags which can provide context as to why
someone assigned a particular tag to a document.

▸ **Can Now Easily Accept Load Files into the
Platform.** While "load files" were not originally
supported because of their outdated structure,
GoldFynch can now accept production sets in this
format. GoldFynch also allows you to customize the
fields and columns upon import.

▸ **Generate Reports Based on Tags or Searches.**
GoldFynch will now allow you to export various
types of file lists from your case including "all files,"
files by specific tags, or files based on a saved
advanced search query.

▸ **Support for Timezone Formats.** GoldFynch has
added additional support for how dates and
timestamps appear from email.

GoldFynch

CLOUD-BASED DOCUMENT REVIEW PLATFORM WITH ZERO LEARNING CURVE AND AN EXTRAORDINARY PRICING STRUCTURE FOR SMALL & MIDSIZE FIRMS

GoldFynch may well be one of the most intuitive and affordable options when it comes to cloud-based document review platforms. Compared to others, GoldFynch does not offer a plethora of advanced and intricate features, but since the vast majority of litigators don't need predictive coding or text analytics, GoldFynch is an optimal choice. Most lawyers just need an easy to use, affordable, and capable platform for quickly reviewing the data they've been given, and GoldFynch can be exactly what you need.

A relative newcomer to the eDiscovery market, GoldFynch has uniquely positioned themselves to take advantage of the most modern and cutting-edge technology available for today's web browsers, and they have effectively leveraged the capabilities of the collective cloud. The lower pricing in no way indicates lower quality, it just means that GoldFynch can pass on the savings to you and your clients.

Upload & Processing

Once you've signed up for GoldFynch and created a case, you are presented with a no-frills dashboard containing action buttons on the left side.

The first button you need to click is "Files" that allows you to upload data into GoldFynch. Thankfully the entire process is a simple drag and drop function, so if your client has sent you a PST file or a collection of PDF files, you can simply open your web browser and drag those files over.

Right off the bat, GoldFynch extracts all the metadata from your files and exposes the contents so you start looking at the documents and rename them or otherwise organize them to your preference. After that, GoldFynch takes a little more time to index all the text and run OCR so you can search the files. You may need to go through and delete any extraneous files that don't contain data, such as Windows systems files, and to help with this you can pull the "unsupported" files menu.

> ❝ *GoldFynch may well be one of the most intuitive and affordable options when it comes to cloud-based document review platforms.* ❞

Brilliantly, GoldFynch keeps the folder structure intact for any PST files that you upload so you can see exactly how messages were being stored by your client or custodian. This path is even revealed at the top of the window when you're viewing an individual message, so you always know the original location of that email.

In fact, GoldFynch does this so well that they now offer a completely free, in-browser "PST Viewer" so you can look at what you have before it gets processed. GoldFynch's PST Viewer keeps the file locally on your machine and doesn't modify any metadata. You can't search your PST file here, just view the contents, but when you need more insight it's easy to create a case in GoldFynch and go from there.

Search & Review
The next step for most users is to click the "Search" button which takes you to a nice, clean interface with a search box at top. You can start typing a word or phrase that you're searching for, and by default, GoldFynch will search everything in the content of your files (you'll also see a list of suggested searches along with the number of results to help guide your search).

At the top of the screen, GoldFynch shows you the search query it created so you know exactly what was searched. If you need to modify that search, you can simply click the pencil icon which provides an interactive interface for building the search you need. The Advanced Search component allows you to build complex search queries with multiple search parameters. Regardless of what search approach you take, your search terms are beautifully highlighted in the results and you can select the sort order from a dropdown on the right.

> *GoldFynch has uniquely positioned themselves to take advantage of the most modern and cutting-edge technology available for today's web browsers, and they have effectively leveraged the capabilities of the collective cloud.*

If you know the specific metadata field that you need to search such as the "To" or "From" fields of email messages, GoldFynch allows you to quickly type a specific query using the colon symbol (e.g. from:ceoannou@bna.com).

Viewing Documents
For all of the electronic files you upload to GoldFynch, the platform will create a PDF rendering of those files and extract out any locations, dates, people's names, and more, which are revealed on the right side. You can click on any piece of this information to reveal it in your document. If your documents are not searchable, images of text, GoldFynch will automatically perform OCR and extract out the information.

The document viewer for email messages shows you what folder the message came from so you can see it in context. In addition, GoldFynch will show you the attachments to messages and they have promised that email threading will be arriving soon.

GoldFynch allows you to tag your documents in a free-form manner, similar to the way you may add a hashtag on Twitter. You are free to use whatever nomenclature that will be helpful for you to track which documents are relevant, confidential, hot/important, or completely irrelevant for your matter.

You can also bulk-tag files when you perform searches, so that you can quickly mark a group of files as irrelevant.

Exports & Production
When you're ready to produce documents, you simply click the Production button on the left panel to start the production wizard. You first find the set of documents you plan to produce, and then you'll walk through the steps to create a production set that can be shared right from within the system, or downloaded to be sent by other means.

Pricing
There's one area where you can apply the word "disruptive" to GoldFynch - their pricing.

GoldFynch's pricing is per case, so this may not be the best option if you plan to create multiple cases. But it's perfect if you only have 2 to 5 cases per year and you need an easy way to pass on the costs of the service to your client.

If the total amount of data that you upload for a single case is less than 512 MB, your use of GoldFynch is completely free for that one case.

Now the caveat is that the case size is based on "uncompressed" file volume after uploading your data to the GoldFynch servers, which can sometimes be a little larger than the PST that your client sent you. In other words, a single PST routinely expands out to a larger size when it goes through the processing stage.

Up to 1 GB of data, your case in GoldFynch only costs you $10 per month. Up to 3 GB of data, your case will only cost you $25 per month. GoldFynch offers a fantastic pricing slider on their website so you can see exactly what you should expect to pay each month. For example, if you have up to 5 GB of data in your case, you will only pay $35 per month (the pricing is also prorated).

Even better, if you are done with your case, or your client stops paying you for your hard work, you can simply download the data from GoldFynch and delete the case (although you won't be able to keep your tags).

This unique and accommodating pricing structure is absolutely fantastic for mid-size and smaller firms that perhaps have never used an eDiscovery platform before, but need something to use that is quick and affordable so they can get up and running. There's very little risk in trying out GoldFynch for free.

Who Is GoldFynch?
Founded by three University of Iowa graduates, Ross Johnson, Anith Mathai, and Amanda Johnson, GoldFynch is their brainchild (the parent software company is Mazira). Based on multiple requests from lawyers and paralegals, the three founders created GoldFynch to be a simple, cloud-based alternative to the clunky and frustrating software already existing on the market for litigation support.

Why You Should Consider GoldFynch...
▸ Offers an unrivaled and economical pricing structure on a per case basis, based on the amount of data you hold in each case per month. Each case includes unlimited users and productions.
▸ Reveals the folder structure of PST files so you can visually see the folders that clients were using in their own Microsoft Outlook.
▸ Extracts any dates and locations found in documents and displays that information in the right-hand panel for quick review.
▸ Queries in the Advanced Search window can be moved around to obtain the intended search.

> " *If you're a smaller firm that has been using Microsoft Outlook to review PST files collected from clients, or a PDF viewer to open each TIFF image from a production set, you would be well-served to give GoldFynch a try to see how it can vastly improve your workflow.* "

H5 Search-as-a-Service

EXPERT SEARCH-AS-A-SERVICE OFFERING FOR LARGE REVIEW PROJECTS TO HELP YOU EASILY FIND "KEY DOCUMENTS" AND PARSE THROUGH EMAIL THREADS

H5

In case you haven't noticed, we live in a digital world which allows us to stream movies, read e-books, and listen to any music we desire. But this digital transformation also has tremendous implications on how we collect, process, review, and produce digital information for investigations and litigation matters.

Note we're discussing "digital information" and purposefully not limiting the discussion to just "documents." Too many lawyers today are stuck inside the four corners of an 8½" x 11" sheet of paper when they consider a "document." But that's not how the world transmits or records information today – there are no "pages" in an email message, or a website, or even a Microsoft Word document until we hit the print button. And when we print a digital file, we are converting a dynamic, information-rich file into a static, analog, flat format on pulverized tree pulp.

H5 is a company that truly comprehends this dichotomy and what it means for the legal profession today. The company was founded in 1999 and pioneered technology-assisted review (TAR) years before the phrase had been coined. As H5 evolved over the last 20 years, they have seen first-hand the folly of applying old analog techniques to the realm of digital data.

For example, while lawyers may still think about "reading" individual documents to find important clues, H5 looks at the much bigger picture of a large collection of digital data to find relevant information. It's no longer a "reading" challenge today so much as a "data analysis" challenge.

H5 brings all of this expertise to bear in their services teams that are ready to help you find exactly what you need so you don't have to experience the frustration of a long, strung-out, manual review.

Your Documents are The Key to Knowledge
Perhaps the best example of how H5 partners with their customers to deliver their services is through something they call Key Document Identification or KDI. H5 refers to this as their expert "search-as-a-service."

One reason you have to engage in a document review project is to identify relevant information that must be produced to the opposing party. But another important goal is to identify the small percentage of files and documents that you need to craft the strategy involved with your case. Traditionally, this has been accomplished by sitting down and meticulously reading through each file/document one at a time. This method works well when you have a couple hundred documents in front of you, but today you're faced with millions of email messages, and that manual, ad-hoc approach is untenable.

The search experts at H5 can bring their collective and comprehensive expertise to the table where they can drastically reduce the amount of time it takes to identify your important, key documents.

> " *H5 provided the type of professional service and quick turnaround that a company can only dream about in a situation like this. They helped us find what we needed, faster than we ever could have— and the best part is that we didn't have to pay an arm and a leg to get the job done.* "
>
> — *General Counsel, Fortune 100 Technology Company*

They're not throwing bodies at the review project; instead H5 works with you to understand what kind of information will be most helpful to your case, and then they use their proprietary search platform and search expertise to parse through the data collection to pull out those files that are more than likely going to contain the key information pertinent to your case strategy.

As a legal practitioner, you may have access to your own set of search tools, but lawyers are trained to craft a legal strategy while the data analytics consultants, linguists and search experts at H5 are trained to uncover the needles in digital haystacks. You could certainly attempt to find your own documents by painstakingly sifting through every file, or you could take advantage of the expertise offered by H5.

Not All Data is Created Equal

The services components offered by H5 don't stop with Key Document Identification (KDI), but extend into a multitude of different offerings, all focused on enhancing your experience with reviewing data collections in Relativity (H5 won a Relativity Innovation Award in 2017 for their "H5 Matter Intelligence®" application).

One of the more strategic aspects of their services offerings relates to their intake capabilities when receiving inbound data and processing it into Relativity. While most document review platforms will just index and process data coming into their platform, H5 adds a few additional strategies based on their experience on how to more effectively prepare data for search, analysis, and review.

> **"H5 was founded in 1999 and started exploring the idea of technology-assisted review (TAR) before it was even an acceptable concept."**

For example, almost any document review platform will apply basic de-duplication–and even near-deduplication–techniques to a data population, but H5 provides additional analysis to more easily identify exact and near duplicate files, especially in the realm of email conversations.

Another example is how H5 "normalizes" the names and email addresses found in email collections. While it would seem easy to simply pull names and addresses from email messages, the reality is that names can appear differently based on the source of the email collection, and in some cases the names are long strings of information. H5 analyzes all of those names and addresses and "normalizes" them so searches and filters will return more accurate results.

It's worth considering the service offerings from H5 the next time you're facing a large, overwhelming document review project. Sure, you could approach the matter in the same, manual way you've always done and spend precious time and resources on ineffective search practices, or you work with a trusted, expert search-as-a-service provider that can help you accomplish your goals quickly and accurately.

Who Is H5?

In 1999, a group of linguists and computer experts worked to improve the way we could use technology to find information quickly and accurately. After working closely with U.S. intelligence, H5 focused their efforts on technology-assisted review for the legal sector and today offer products and services for legal counsel dealing with e-discovery challenges.

Why You Should Consider H5 Services...

- Your team can be looking at the most important documents in a matter of days instead of weeks or months.
- H5's service offerings span the entire lifecycle of a litigation matter from early case assessment to production sets.
- Service teams from H5 are composed of managers, linguists, search leads, and data analytics consultants with advanced degrees and Juris Doctorates.
- Their advanced, proprietary search platform helps their services team quickly and efficiently find the data you need.

Try Out H5 Services For Yourself!
For more information about how H5's unique Key Document Identification can help your team find critical documents quickly, click here.

H5

H5 Matter Analytics
CUTTING-EDGE ANALYTICS TOOL INTEGRATED INTO RELATIVITY PROVIDING COHERENT INSIGHT INTO EMAIL THREADS AND CONVERSATIONS

H5
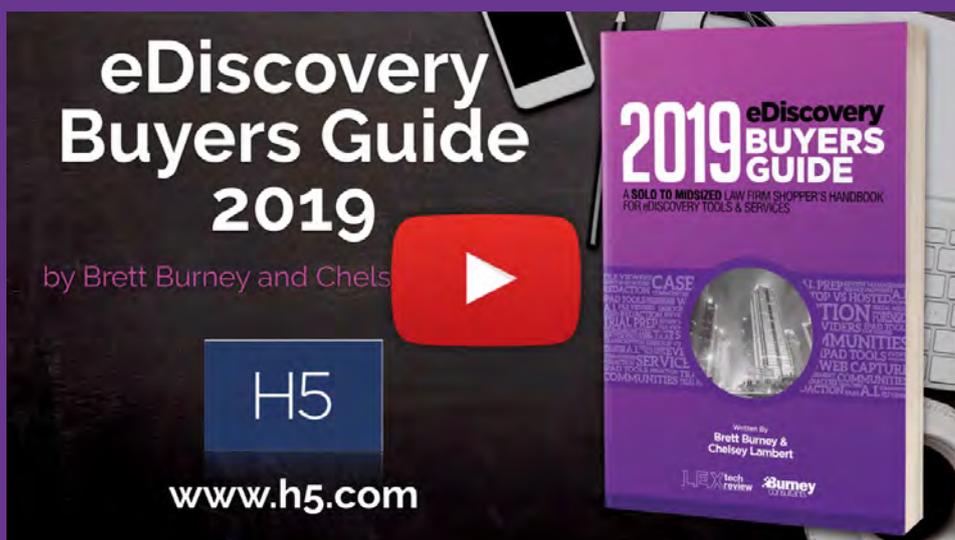
VIDEO REVIEW

Click to view a short video review of H5 on YouTube.

Recent Developments and Updates

▶ **Wider Release of H5 Matter Analytics® for Relativity.** Previously only available for H5 clients, the H5 Matter Analytics® technology is now available for any law firm or corporation that is using Relativity.

▶ **Rapid Identification of Personally Identifiable Information (PII).** Developed with the expertise of H5 linguists and engineers, H5 Matter Analytics® can automatically quickly identify prioritize PII content for review.

▶ **The Use of Linguistic Modeling to Recognize Personally Identifiable Information.** While some people unjustifiably rely on manual review or keyword searches to identify PII, H5 Matter Analytics® more accurately recognizes PII based on a linguistic analysis of document.

▶ **Award-Winning Email "Thread Viewer."** The "Thread Viewer" in H5 Matter Analytics® provides a visual representation of an email thread combined with a stream of the conversation itself recognized by the National Law Journal's inaugural list of Emerging Legal Technologies

H5 Matter Analytics
CUTTING-EDGE ANALYTICS TOOL INTEGRATED INTO RELATIVITY PROVIDING COHERENT INSIGHT INTO EMAIL THREADS AND CONVERSATIONS

H5

If you deal with e-discovery today, your head probably spins from the unending mentions of analytics, algorithms, and predictive technologies swirling around. All you really want to know is who was talking with whom, about what, when, and why – but all of the technical jargon just gets in the way when you simply need to understand the conversations happening in email.

That's the hyperfocus of e-discovery company H5 with a product they call "H5 Matter Analytics®." While the company still certainly celebrates their core skills of linguistics and computer science, they use their technology expertise to expose information in email data in the most straightforward and approachable method possible for their customers.

H5 was founded in 1999, which reveals their longstanding expertise in dealing with e-discovery issues. They were a valued participant in the NIST Text Retrieval Conference (TREC) Legal Track when that group was active in helping to assess information retrieval techniques to meet the needs of the legal profession in finding relevant business records for use as evidence in civil litigation. Today, through their product offerings and expert services, H5 is a leader in supporting legal counsel who must review electronic information.

Analytics That Matter
H5 Matter Analytics is a Relativity-integrated application built to enhance and accelerate the review of large numbers of documents and electronic files. The tool grew out of H5's internal need to provide better tools for their own services teams for uncovering the information that their customers needed. As a result, the tool is battle-tested and happily used by H5's customer base.

> " *H5 effectively uses their technology expertise to expose information in email data in the most straightforward and approachable method possible for their customers.* "

Most of the power in H5 Matter Analytics is dedicated to email, which makes sense since email continues to be the primary source of potentially relevant information gathered for litigation matters. The challenge is the way we use email today – what started out as a simple electronic replacement for a letter sent through the Postal Service has now become a full-fledged communication system with conversations flying everywhere, attachments being sent, and a never-ending stream of spam and dribble.

Life would be simple if the majority of email exchanges consisted of an email to a single colleague who could then reply to you to complete the loop of a communication exchange. But that's not how we use email in today's world. One person can send an email to 50 people and maybe half of them will reply to the sender, but others can forward the message to other individuals who may reply to the original sender or start their own conversations. Still others might CC and BCC additional recipients in replies and forwards. All of this results in a messy, intricate conversation thread that is close to impossible to re-create for purposes of reviewing who said what, to whom, and when. It seems like email should be a simple thing to review, but it is a gigantic, complex puzzle that requires some sophisticated considerations. That's where H5 Matter Analytics can help.

Is Your Name Normal?

Adding to the complexity of email is the way that different email applications and servers handle the names of senders and recipients. This doesn't sound like it should be a problem, since when you receive an email you can see the sender's name just fine. But depending upon your specific setup, the name could appear as first and last name (Robert Smith), or last name, first name (Smith, Bob). Sometimes the entire email address shows instead (rsmith@company.com), and other times you'll see a department name or work title. And if you've

engaged in any kind of review of email, you've probably even seen some weird symbols in email addresses when they're pulled from the backend servers.

All of these different email address formats cause havoc when you're trying to search for specific names, or filter by specific addresses. That's why H5 offers "Name Normalization" for email addresses.

Most document review platforms today will simply extract whatever names and addresses appear in the emails and don't go any further. But H5 seeks to "normalize" the names across your data collection so that you can have confidence your database is accurate, and be confident that your searches are retrieving what you're looking for.

All of the information gleaned from the Name Normalization exercise gets pulled into a "People Profile Page" where you can see all the variations of an individual's email address that H5 found, and then add other information about the individual such as the role they play in the matter.

Hanging On By A Thread...

If email today is used more as a conversation medium, it makes sense that we need better tools to analyze those conversations rather than just treat each email as an individual document. We have to understand the bigger picture of how the individuals were communicating, about what topics, and when.

We typically refer to a group of related emails as a "conversation." We're all familiar with this concept because modern-day email software gives us the option of grouping related messages together in our viewer so we can make sense of the overall conversation. We also refer to an email conversation as a "thread."

There are several e-discovery document review platforms that display an email thread, which is usually based on the piece of metadata pulled from email software that indicates related messages. Some platforms do a better job at this than others. H5 Matter Analytics works inside a Relativity database using proprietary algorithms to identify and organize original and subsequent messages in a thread. It provides two important views of the thread, a "Map View," which visually helps the user understand the order and branching of communication, and a "Conversation View," where the unique and new contents of each message are parsed and assembled in a communication stream so an entire conversation can be reviewed at once.

> " *The email thread in Map View can also be enhanced with "Communication Markers" allowing you to easily see different classes of individuals.* "

These two views work hand-in-hand, with the Map View acting as a filter for specific emails and segments of conversation to be displayed. Individual emails are referenced using a simple sequential numbering system and email boxes are color coded based on the presence of unique content and whether a message was part of the collected data or not. "Communication Markers" can be set up so you can see different classes of individuals. For example, if you create a People Profile for the attorneys involved in the matter, you can create a Communication Marker that will color-code any email messages to or from those attorneys in the Map View, flagging messages that may need to be marked as privileged.

The Conversation View enables a quick review of an entire email conversation without leaving the present document, providing the full context of all communication in the conversation. This can provide significant acceleration of email review, whether for fact discovery, responsiveness review, privileged review, or cyber breach incident response. The Map View can then be used to filter to a specific segment of the conversation for intelligent mass editing of only portions of the Conversation—again, without leaving the present document. Elements in either view are clickable, such as clicking on an email participant's name to visit their Profile page.

Identifying PII
One other feature of H5 Matter Analytics is that it can accurately identify any messages or files that contain personally identifiable information (PII), such as Social Security numbers, credit card numbers, passport IDs, etc.

You can manually search for this information in a variety of document review platforms, but you usually need to supply the exact search term and/or numeric search patterns, such as with Regular Expressions (RegEx). H5 utilizes their years of experience in data analytics, not to simply look for a specific word or numeric patterns, but to analyze available information contained in the document to better understand the context of where the potential PII is found, increasing the accuracy of what is identified, thus reducing false positives and false negatives.

When H5 identifies this information, it gets presented inside a Relativity database so that reviewers can verify if it needs to be redacted, bulk coded, or tracked, as would be necessary in a cyber-breach incident response.

Who Is H5?
In 1999, a group of linguists and computer experts worked to improve the way we could use technology to find information quickly and accurately. After working closely with U.S. intelligence, H5 focused their efforts on technology-assisted review for the legal sector and today offer products and services for legal counsel dealing with e-discovery challenges.

Why You Should Consider H5 Matter Analytics...
▸ Effectively reveals one-to-one email communications and one-to-many email blasts to help you zone in on the most relevant information.
▸ Enables review of entire email conversations as one stream, gaining full context of branching discussions and changes in email participants, significantly reducing the amount of unique content that must be reviewed
▸ Ability to quickly target select subsets of emails and attachments in a conversation to apply bulk-tagging to documents from almost any view of email.
▸ H5 Matter Analytics can either be licensed in-house or fully handled by an H5 services team.

> " *Most document review platforms today will simply extract whatever names and addresses appear in the emails but H5 "normalizes" the names across your data collection so that you can have confidence your database is accurate.* "

Try Out H5 Matter Analytics For Yourself!
To schedule a demo and learn how H5 Matter Analytics can help you accelerate document review, click here.

H5

Indexed I/O

AN AFFORDABLE AND SCALABLE
EDISCOVERY SOLUTION WITH A
PROMINENT FOCUS ON THOROUGH AND
COMPREHENSIVE DATA PROCESSING FOR
EFFECTIVE EDISCOVERY REVIEWS

VIDEO REVIEW

Click to view a short video review
of Indexed I/O on YouTube.

Recent Developments and Updates

▶ **Transparent Billing.** Indexed I/O has made it easy to figure out exactly what your project is costing with a helpful Admin section that breaks down your monthly costs, as well as more information on how much data you're processing, storing, and exporting. You can even estimate your costs in advance with their new pricing calculator.

▶ **Support Added for XPS and OXPS.** The XPS and OXPS files can now be ingested into Indexed I/O and will have rendered PDFs, extracted text, and extracted metadata fields.

▶ **Overhauled Export Wizard.** Indexed I/O recently overhauled their export wizard offering additional options for customizing the exports for production and creating load files.

▶ **Improved IMAP Processing Capabilities for Email.** Indexed I/O offers a two-step wizard to collect email from an IMAP-enabled account from services including Gmail and Yahoo! as long as you have the user credentials and potential two-factor authentication.

Indexed I/O

AN AFFORDABLE AND SCALABLE EDISCOVERY SOLUTION WITH A PROMINENT FOCUS ON THOROUGH AND COMPREHENSIVE DATA PROCESSING FOR EFFECTIVE EDISCOVERY REVIEWS

If you've ever had the feeling that eDiscovery tools were not designed for the way you work, you might want to spend a few minutes exploring the cloud-based, do-it-yourself, Indexed I/O eDiscovery solution. The co-founders developed Indexed I/O out of their own frustrations they experienced in using other tools, and made it their personal mission to develop an accessible, easy-to-use, on-demand platform that a lawyer from any size firm could use and incorporate into their eDiscovery workflow.

The company started out offering a data processing solution because the founders believed the current tools on the market were inadequate and lacked the thoroughness they believed was necessary for truly effective document reviews. Unfortunately, most litigators and legal professionals don't give much thought to the data processing stage of eDiscovery, but it is an absolutely critical step to ensure the accuracy of your searches, as well as the ability to sort, organize, and filter your files. Without a meticulous processing tool, it is almost certain that you will miss documents and not even realize it.

While the capabilities of Indexed I/O have grown to offer a full-service document review platform, the data processing stage is still a core focus. In fact, Indexed I/O has a number of legal service providers as their customers, and a lot of those channel partners rely on Indexed I/O purely for their highly accurate and rigorous data processing proficiency, even if those partners use other tools for document review and production. Indexed I/O ensures that the data processing stage is as fast and accurate as possible so that you have the confidence all the necessary information is fully extracted out of the electronically stored information.

> " *Without a meticulous data processing tool like Indexed I/O, it is completely possible that you will miss documents in your review and not even realize it.* "
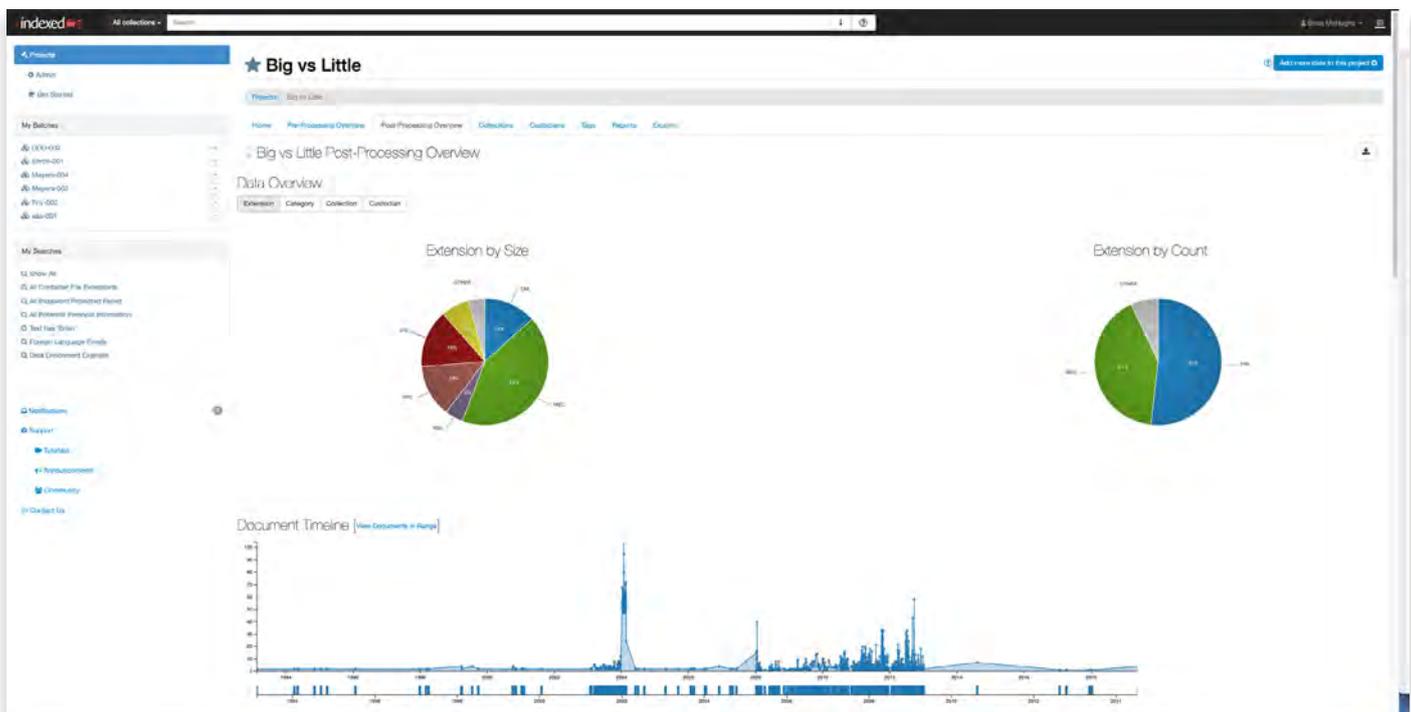
Adding Data To Your Project

After signing up for an account, there are several options for bringing in data to Indexed I/O. You can load files directly from your computer or external hard drive, or the company has several options for loading directly from cloud-based storage services including Dropbox and Amazon S3. You can also make use of their proprietary and secure "IIO Drive."

Lastly, Indexed I/O can collect email directly from any IMAP enabled mail account, along with popular email services such as Google, Office 365, Yahoo!, and others.

Once the data is processed, you can view a very clean and intelligible "Post Processing Overview" page that breaks down all your files by size, extension, and even a helpful "Document Timeline." You can also see a horizontal bar graph of all the email domains collected from your data.

For email, Indexed I/O composes a circular "Communication Chart" which provides a helpful way to learn who was communicating with whom. And finally, Indexed I/O offers on-demand translation for any of those documents that you need to have quickly translated from a foreign language.

Review Your Data

Once you're done with the all-important processing stage, you can move on to the review interface that is fresh and modern … just the simplicity you need when reviewing documents. A quick glance reveals the document on the left side of the screen, and the coding panel for tags on the right side of the screen. All of this can be customized so that you can take advantage of the real estate on your computer screen. Indexed I/O also reveals the metadata associated with a particular file, so you can easily review all of the related information for each document.

> **Indexed I/O can collect email directly from any IMAP enabled mail account, along with popular email services such as Google, Yahoo!, and others.**

Document review is no fun when you're on your own, so Indexed I/O makes it very easy to invite colleagues to share the fun. Documents can be batched for review and sent to individual users for their examination.

While almost any review tool gives you access to some kind of report on the progress of your project, Indexed I/O has a unique graphic they call the "Burn Down Chart" which basically tallies up all the review progress so you know immediately how many items must be reviewed each day to keep you on schedule. This unique visual also predicts the time remaining for the project so you can best anticipate how much time it will take to finish.

The Document List and Grid

Any time you have a list of documents and files on the screen, you can easily generate a report from that list. The "Download Reports" button will generate a report which you can name, customize the date & time format, and select which metadata fields you want to have included as columns on the report. In the same fashion, you can create a privilege log from the database and select which fields you've agreed will be included.

When you're ready to construct a production set of your responsive and non-privileged files, you simply go through the four-step wizard to create a data export. All of the basic options are available, and you choose whether you want to download native files, PDFs or TIFF images, and/or Text files with load files. You can also add Bates numbers and endorsements as needed. The export wizard makes it easy and fast to output your production and deliver to the other side, but also has many advanced settings ensuring any special delivery requests can be handled.

Similar Items and Searching

Indexed I/O offers an easy way to view "similar items." You may have come across the term "near-duplicate" if you've been involved in eDiscovery before, which is a term commonly used to refer to documents that are similar to each other, but not exact duplicates. Indexed I/O takes the confusion out of the "near-duplicate" concept by showing similar items in context with the other related data that better helps you understand the similarities.

For searching through your files, Indexed I/O boasts a Quick Search bar at the top allowing you to quickly plug in a word or two for searching across your set of documents. If you need a little more horsepower, the advanced search option allows you to build a query which can then be saved so that it can be shared with others on your team.

iReview My Documents on an iPad

One additional and interesting offering from Indexed I/O is their dedicated iPad app. While almost any cloud-based platform is accessible from a browser on a mobile device, only a few companies have developed a native iPad app. The concept doesn't seem to be popular – after all, what lawyer wants to stare at a tiny screen while making strategic decisions on a document's content?

But the legal profession (like any profession) is becoming mobile, and more and more professionals are getting work done wherever they may be located. So it makes sense that you should be able to review documents sitting at a coffee shop in the same way you sit chained to your desk at the office. The Indexed I/O iPad app allows legal professionals to access their review projects on the go with a clean and simple design. If you need to leave the office, you can take your iPad with you and continue your review project – easily view documents, apply tags, and even redact if necessary.

Who is Indexed I/O?

Founded in 2012, co-founders Brian McHughs (CEO) and Eric Fowler (CTO) were frustrated with data processing and document review platforms on the market and set out to develop something better. They started with a focus on data processing which soon grew into the full-featured eDiscovery solution offered today by Indexed I/O.

Why You Should Consider Indexed I/O...

▸ Pay for processing and reviewing data as you need it – no subscription or user fees! Full pricing information can be found here.

▸ You can "hibernate" your project when you don't need regular access to it, which moves your data to an inactive state billed at a reduced hosting rate.

▸ Share searches with other members of the eDiscovery review team.

▸ Text transcriptions can be added to audio and video files.

> **" One additional and interesting offering from Indexed I/O is their dedicated iPad app. ”**

Try Out Indexed I/O For Yourself!
Use Indexed I/O's fully functional eDiscovery solution free with a 30-day trial!

indexed

Lexbe

COMPREHENSIVE CLOUD-BASED
PROCESSING AND EDISCOVERY REVIEW
PLATFORM FOR FIRMS THAT MAY PREFER
A DIY APPROACH OR NEED ASSISTANCE
FROM PROFESSIONAL SERVICES
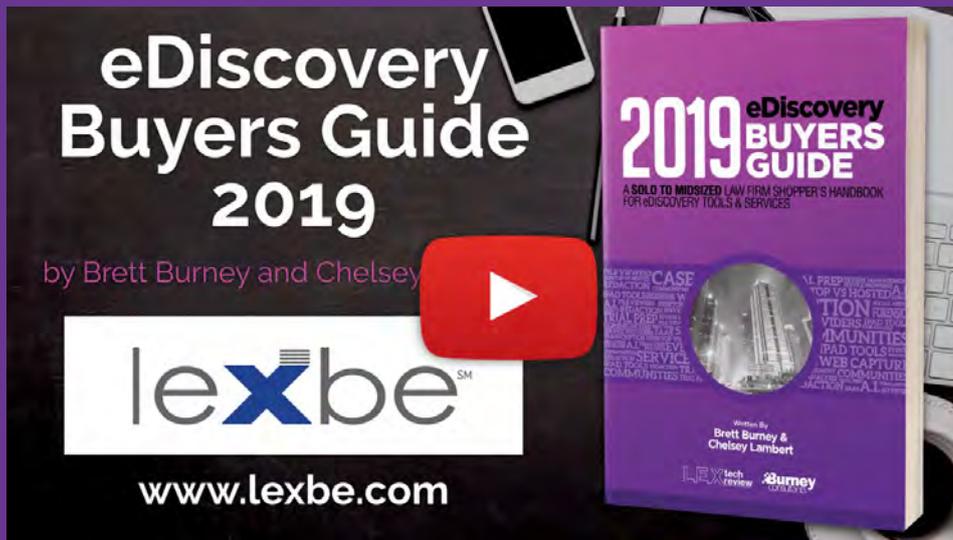
lexbe℠

VIDEO REVIEW

Click to view a short video review
of Lexbe on YouTube.

Recent Developments and Updates

▸ **Click Through your Documents Faster!** Speed improvements including auto-scaling of document processing based on data volume and improved document-to-document navigation speed.

▸ **Easily Review Raw Messaging Data as PDF Files.** Lexbe's Integrated Messaging+ service converts raw data export files from text messages, Google Hangout, Skype, Slack and more into readable text and image formats for review.

▸ **NearDupe and TAR Improvements Now Included in all Lexbe Subscription Plans.** Lexbe's NearDup Groupings+ helps to quickly identify key documents, group similar documents, ensure consistency in privilege coding, and enable effective email threading.

▸ **Remotely Collect Files from Personal Computers.** Lexbe offers a service to remotely and forensically collect data from workstations and laptops and directly import into the Lexbe eDiscovery Platform.

Lexbe

COMPREHENSIVE CLOUD-BASED PROCESSING AND EDISCOVERY REVIEW PLATFORM FOR FIRMS THAT MAY PREFER A DIY APPROACH OR NEED ASSISTANCE FROM PROFESSIONAL SERVICES

From the beginning, Lexbe has focused on the DIY approach for data processing and document review - they realize many litigation teams prefer to tackle eDiscovery on their own because they either need to keep costs down or they just want to control all aspects of their matter. And while Lexbe certainly encourages and supports your DIY inclinations, they can step in with their professional services team at any time to make sure your matters stay on track.

Lexbe was one of the first cloud-based platforms that empowered small and midsize firms with the ability to tackle document review projects without a substantial outlay for purchasing software, hardware, or specialized training.

Uploading & Processing
Last year, Lexbe overhauled their main platform interface to streamline functions and help fuel their DIY mission. Lexbe has always featured a simple and intuitive interface, and the main method for navigating the interface is through tabs at the

top for Case, Analysis, Search, Browse, Discovery, Management, and a few more.

The "Case" tab is where you upload files for processing and ingestion into the system. You can simply upload a PST file (Outlook email collection), or if you have multiple electronic files Lexbe recommends that you compress them into a single .ZIP file before uploading. If you can upload a picture to Facebook, you can upload data to Lexbe.

> **" From the beginning, Lexbe has focused on the DIY approach for data processing and document review. "**

Browse & Review

After your data is processed, most users will click over to the "Browse" tab to be presented with a linear list of files and documents. You can customize the columns and fields of information that appear on the list. You are welcome to start reading through the first document and go through the whole list, but that's usually not the best use of your time (or anyone's time!).

Instead, use the Filters on the left side of the screen to quickly drill down into a set of documents that may be more important, such as documents from a specific custodian, a specific date range, or just specific files types (e.g. Microsoft Word documents or PowerPoint presentations). Documents in a filtered view can also be sorted by date. And if you're looking at email messages the attachments are displayed immediately after the main message.

One of the best additions in the updated interface is the conspicuous yellow bar at the top of your document list that shows you exactly what filters are being applied to the documents you're viewing. As you apply filters to your data, the yellow bar keeps track so you know exactly what you're looking at all times. Even better, the set of filters that you apply to your data can be saved for future use, and they can also be shared with other members of your team.

Search

Lexbe incorporates all of the major features you need in a comprehensive search tool for eDiscovery. You can perform a simple, Boolean search in the provided search box on the left, or elect to toggle on the advanced options to run concept, fuzzy, or stemming searches. You can apply your search to specific metadata fields, or you can combine a saved filter with your search to further narrow down the collection of documents you need to review.

All of those searching features are great, but Lexbe has kicked it up a notch with their new Uber Index. While most search tools will certainly index the metadata and visible contents of files, Lexbe's Uber Index goes a bit further and will OCR any images that contain text embedded into Microsoft Word

documents or PowerPoint presentations so you can search that text too (which could be extremely important!). The Uber Index also contains the translation of any non-English words found in the documents if Lexbe's auto-translation is used, or manual translations are uploaded to the document record .

Viewing Documents

Clicking a document opens it in a new tab in your web browser. This is helpful if you'd like to drag the tab over to a second monitor to view a document while keeping the database list open on your first monitor.

A set of tags at the top of the document lets you select which view of the document you want to see. The "Original" view allows you to download the native file of the original document if you need to open it in its native application (e.g. a Microsoft Excel spreadsheet must be opened in the Microsoft Excel software). Often this step won't be necessary since Lexbe offers other tabs with extracted native text and the PDF tab.

The "PDF" tab is where most people will spend their time because it presents the best representation of how the original document looks without having to open the file in its native application. The "Text" tab shows you all of the text that was extracted from the document, including any additional text that the Uber Index picked up. Lexbe also offers "Produced" and "Redacted" tabs that show you the documents with a Bates stamp or other endorsements, or the documents with the redactions burned in.

A panel to the right of the document contains tabs that correspond to what actions you want to take on the document. The "Discovery" tab is where you tag a document as responsive or privileged, and otherwise issue code. The "Notes" tab lets you type out any thoughts you have on the document. Lexbe even lets you apply notes to a specific page of the document. You can find a list of all your notes by clicking "Case Notes."

The "Related" tab reveals any members of a document family (e.g. parent email message or sibling child attachments). This is also where you can see any duplicates of the document from the database as well as "near-duplicates" based on text similarity.

One of the most impressive features included in Lexbe is their case analysis tools. When you're viewing a document, you can click the "Facts" tab in the right panel which allows you to link the

> **"** *Use the Filters to quickly drill down into a set of documents by custodian, date, file types, and more.* **"**

document to a case chronology. You can create new facts under the "Facts & Issues" section and view your timeline there as well.

Exports & Productions

Continuing in the DIY tradition, Lexbe lets you create your own exports and production sets once you're done with the document review. If you have a basic understanding of creating electronic production sets, you'll be fine. If you need any assistance, just contact Lexbe's Professional Services Team.

Clicking "Export" on the left panel offers two options: you can "Export Log to Excel" or "Export to Briefcase." The Excel option creates a nicely formatted spreadsheet with all of the fields you choose to include. You can search and sort the spreadsheet and there's a hyperlink included for each document that will take you into the Lexbe platform to the specific document if you have the proper credentials.

Clicking "Production" on the left panel starts a wizard that walks you through the process where you choose the format of production (PDFs, TIFFs, native, etc.) and whether you want any stamps applied (Bates, confidentiality endorsements, etc.). Lexbe has an excellent validation step to ensure the right documents are included so that you're not producing any files that have been marked as privileged.

Pricing

Lexbe offers plans starting at $25 per GB per month, but you should contact Lexbe to determine the best plan for your needs. The "Flex Plan" is month-to-month with no user fees, but the Subscription Plans are less expensive based on tiered volume discounts.

Who Is Lexbe?

Based in Austin, TX, Lexbe provides companies and law firms with a web-based eDiscovery Platform that is easy to use, without sacrificing any of the features that litigation professionals expect in best of breed review software.

Why You Should Consider Lexbe...

▸ The Uber Index throws a much wider search net including performing OCR on embedded images inside documents and presentations.

▸ Documents can be associated with "Facts" that get aggregated into an easy-to-access Chronology.

▸ The "Case Assessment" feature can generate reports for a multitude of components including document count by custodian, file sizes by extension, and much more.

▸ Lexbe offers excellent training resources to ensure clients are set up for DIY success, and their Professional Services Team is ready to help answer any questions you have about the platform.

> **"** *When you're viewing a document, click the "Facts" tab in the right panel to link the document to a chronology.* **"**

Lean and Mean: 5 Crucial eDiscovery Software Features for Boutique Firms that Enable Handling Document Intensive Cases with Limited Staff.

The trend for attorneys to move from large firms to niche "boutique" firms allows lawyers to take control of their practice, specialize, and grow their clientele on their terms. The challenge these enterprising attorneys face is operating with limited resources, especially when competing against large law firms. A boutique firm will have a smaller budget to maintain infrastructure, support staff, and may not have access to expensive hardware. By leveraging today's cloud-based eDiscovery technology, boutique firms can not only keep from being outgunned by big law, but can actually flip the equation to take down a large adversary.

Many large firms are reticent to dispose of expensive, but outdated, on-site eDiscovery software installations, and this is where small firms can level the playing field. Not only do cloud solutions offer the latest technology, tools, and support services, but you will also find a scalable service that can grow or shrink to meet case needs and at a fraction of the cost of on premise software. Boutique firms want to run lean and mean and these five essential features in an eDiscovery platform enable boutique firms to maximize their utilization of internal resources, achieve optimal efficiency, take on large, complex cases, and win.

1. **DIY Capabilities-** When evaluating the pricing of an eDiscovery platform one of the biggest hidden costs to look out for is the amount of gate-keeping your vendor builds into the service. For example, many vendors require that you pay service fees for their support staff to upload your data into their platform or will charge fees at production in order to retrieve your data. Boutique firms want the flexibility to self-administer their eDiscovery and keep these functions in-house as much as possible. DIY platforms empower the boutique firm to utilize their staff to the fullest extent while having a strong technical support infrastructure at the ready if needed.

2. **Scalable Service-** Boutique firms need to control the time and money they spend on a case. A sophisticated eDiscovery cloud service will be able to scale up the number of servers available to your firm, allowing for the fastest possible processing speed so getting

to document review and getting productions out the door is faster. Scaling services down can be just as important when on a budget. If your caseloads fluctuate, consider vendors with flexible pricing options, allowing you to only pay for service when you have active cases and pause service and payments when it is not needed.

3. **Blended Indexing-** A search index contains the location, text and data, extracted from the documents you upload into your eDiscovery software platform, which allows you to search terabytes of documents instantly to find the evidence in your case. When you enter a keyword, for example, your platform will comb your index looking for a match and retrieve the corresponding documents. Text Based Index (Native Files) and Optical Character Recognition (OCR) Based Index (Images and TIFFs) are the two main options that modern eDiscovery solutions offer. Many platforms will only offer one index, while few will offer both. You stand to lose valuable evidence if your platform does not run documents through both indexing methods. With the Text-Based Index your document will have all embedded text, hidden fields, comments, and metadata catalogued for search. You will miss, however, any images that contain text, such as an image of a budget chart on a PowerPoint slide or a scanned receipt. With an OCR index your documents will be scanned and any text appearing on a document will be "lifted" off the page and catalogued for search, including the text, for example, on an embedded chart on a PowerPoint slide. While some metadata can be requested to accompany the OCRed images, you stand to lose significant amounts of data such as hidden cells on an Excel sheet, which a Text-Based Index would pick up. As you can see, having both indexing capabilities is crucial to running a complete search on all documents. While some platforms do offer both, you will have to run your entire search two times, once across each index. Blending the indexes means that you only have to run a search once because both data sources are concatenated into a single index.. Lexbe refers to this as our Uber Index™ and also includes foreign language translated text.

4. **End-To-End Solutions-** From early case analysis through trial, your eDiscovery platform should support your case at every step. When evaluating a vendor ensure that their software will perform processing, review, production, privilege logging, and timelining. Purchasing additional software to run these tasks not only wastes money but increases the potential for data corruption and mistakes.

5. **On-Demand Staffing-** While most boutique firms want to control costs by keeping eDiscovery in-house, having access to on-demand support staffing is absolutely essential. With strict deadlines and the possibility for unforeseen hurdles, a small firm with limited staff must have access to professionals who can step in. When vetting on-demand support staff, ensure that they are able to provide technical as well as litigation support and have specialized legal eDiscovery training. Some eDiscovery software vendors will offer support staff, ensuring that they are experts in using the platform, but you should cross-check that they are equally competent in providing legal support.

Partnering with the right eDiscovery vendor greatly levels the playing field against a large firm's substantial resources. For more information download our checklist, A Boutique Lawyer's Guide to Managing the Document Intensive Case.

Try Out Lexbe For Yourself!
Click here to view a Lexbe demo on-demand.

lexbe

Logikcull
TRUSTED CLOUD-BASED REVIEW
SOFTWARE FEATURING SPEEDY SETUP
AND CONVENIENT DATA FILTERING
CAPABILITIES

logikcull

VIDEO REVIEW

Click to view a short video review of Logikcull on YouTube.

Recent Developments and Updates

▸ **Review, Search, Redact, and Produce Data from Slack.** Now used by 70% of the Fortune 1000, Slack is a massively popular messaging system that holds a wealth of potentially relevant electronically stored information. Logikcull now lets you gain insight into Slack data.

▸ **Click through your Documents Faster.** Based on user feedback, Logikcull has continued to improve their document review speed so that when you click to progress to the next document, it loads immediately.

▸ **Enhanced Data Security Measures to Protect your Information.** Logikcull includes security features including data encryption in transit and at rest, two-factor authentication, virus scanning, and more that is all SOC-II Type 2, GDPR and Privacy Shield compliant.

▸ **Improved Data Processing Speeds.** The engineers at Logikcull have been working had to tweak and improve the speed at which data gets processed, so your team can start looking at data as soon as possible.

Logikcull
TRUSTED CLOUD-BASED REVIEW SOFTWARE FEATURING SPEEDY SETUP AND CONVENIENT DATA FILTERING CAPABILITIES

If you're a modern-day litigation team, you need a modern-day tool to review modern-day electronic evidence. Logikcull is an online software platform that lets you search, review and analyze email, digital documents, database files, social media, and much more.

The Logikcull platform is designed around three simple pillars: Upload (Processing), Search (Review), and Download (Productions). You'll see these sections when you log into your Logikcull project and everything you do in the platform falls under one of these categories.

Uploading & Processing Data

To get data into Logikcull, you simply drag-and-drop it. This can be a .PST file, or a collection of digital files compressed into a .ZIP file. Logikcull immediately starts processing and indexing your data and when that's completed, you can download a "Processing Report" as a .CSV file (can be opened in Excel) that shows the number of files uploaded along with other essential information.

In addition to email and digital files, Logikcull can now accept audio & video files, along with Slack data. Since Slack is now used in 70% of

the Fortune 1000, it is quickly becoming a major source of potentially relevant electronically stored information, even richer than what is found in email. Logikcull makes reviewing Slack data simple, allowing you to read, search, redact, and produce information from the platform. (You can download a case study to see how New-York-based litigator David Slarskey used Slack data to find critical communications.)

All of your data is thoroughly processed in the backend for you - files are de-duplicated, preserved, OCR'd, and scanned for viruses; all the metadata is extracted and indexed; and images are generated for every file so that viewing documents is lightning quick (Logikcull preserves the native files in case you need them).

> " *Logikcull walks you through each step for creating your production set, asking you to decide if you want native files, PDFs, load files, etc.* "

Additionally during the processing phase, Logikcull tags any file that has something unique about it, or that presented a problem during processing. The "QC Tags" (Quality Control) catalog any files that "have no text" or contain "hidden comments" or "has speaker notes" so you can jump to those quickly and inspect them. If there are files that are password-protected, failed to OCR, or contain a virus, you can quickly bring those up and fix them as necessary.

Logikcull even creates a "Potentially Privileged" QC Tag which is applied to every email that has a law firm email address in the sent/received fields. You can add domains in the settings, but this is an excellent way to bulk code what are presumably confidential communications.

Culling Filters

You'll be hard-pressed to find a more accommodating interface than Logikcull for rapidly culling and filtering down your data for review. Logikcull often compares the experience to shopping on Amazon. When you need a pair of shoes, you don't start looking at all 1.3 million pairs on Amazon one-by-one-by-one … that would be ridiculous. First you'll apply filters such as men's or women's shoes, and whether you want sneakers or dress shoes. Next you'll only want to look at shoes in your size, a specific color, and maybe a specific brand. You may further filter down by price or customer ratings. Now you only have to look through 20-50 pairs of the shoes that you know you want and that will fit you.

When you load 1.3 million documents into Logikcull, why would you start at the very first document and go through them one-by-one-by-one? Instead, use the "Culling Filters" to pull up a very specific set of documents that are going to match what you're looking for.

For example, select "Emails" so you're not looking at PowerPoint presentations or audio files. Then apply a date range so you're only looking at emails sent in 2014. Then you can easily narrow down to emails

> **Logikcull encourages collaboration amongst a litigation team through the Comments box. Here you can type your thoughts and use an @ symbol to sort of "direct-message" another user similar to Facebook or Twitter.**

sent from a specific individual. Now you're only looking at 250 files instead of 1.3 million, and that's a MUCH less overwhelming approach to reviewing the files.

No files or documents are deleted throughout this process - you can always reset your filters if you need to see other files.

Search Like Google

Logikcull is on a mission to make their discovery tool as easy to use as Google. While the "Culling Filters" are extraordinary, you can certainly attack your document collection with keyword searches. You can type right into the large, Google-esque search box at the top. You can search all your documents, or just the subset of documents that you've narrowed down with the "Culling Filters." If you need to get more granular in your searches, you can use the Advanced Search Builder, which allows you to search within any metadata field.

There's also a "Bulk Keyword Search" which is extremely helpful if you're arguing with opposing counsel over the list of search terms to use. The Bulk Keyword tool can run a report to show you exactly how many hits each keyword brings up so you can show opposing counsel they're being ridiculous in their demands.

Document Viewer

Clicking a document opens a screen that looks a little overwhelming, but you have everything you need to start reviewing documents and tagging them appropriately (plus you can close the panels you don't need).

On the left side is your list of documents, in the middle is the document viewer, and the right side has a panel containing all your document information and available tags for coding (e.g. Responsive, Privilege, etc.). The right panel also has a Notes box where you can add entries for a privilege log.

In addition, Logikcull encourages collaboration amongst a litigation team through the Comments box. Here you can type your thoughts and use an @ symbol to sort of "direct-message" another user similar to Facebook or Twitter. When they log into Logikcull, they'll see you messaged them and they can jump right to your comment and reply to your question. No need to print out a copy or attach the document to a separate email - all of your discussions about documents can stay right inside the Logikcull platform. You can also assign documents to reviewers individually or in bulk.

Downloads & Productions

The first step in generating a production set is to run a search, which could be as simple as filtering to all the documents that the team has tagged as "Responsive" but not "Privileged." This "saved search" becomes the basis for your production.

Logikcull walks you through each step for creating your production set, asking you to decide if you want native files, PDFs, load files, etc.

Once your download is complete, how do you send it to the opposing party? Do you create a copy of the production set and put it on an external hard drive or Dropbox account? Logikcull offers a compelling alternative - since your data is already stored in the cloud, why not share it directly from there with the opposing party? You can send them a download link from within Logikcull (they can't get to your database) and you can even decide when the link expires. You'll also get a notification when someone logs in to download the data. Logikcull calls this the "ShareSafe."

Alternatively, you can just download the production to your computer and send via FTP or another secure method.

Pricing

Logikcull offers a "Pay As You Go" per-matter per month pricing plan that includes unlimited users and unlimited data hosting. Always contact Logikcull directly for the most recent prices and plans. Subscription options, with a lower per matter price are also available.

Who Is Logikcull?

Since Logikcull was founded in 2004 by CEO Andy Wilson and CTO Sheng Yang, they've made it their mission to "democratize discovery." The Logikcull platform focuses on simplifying the processes associated with eDiscovery through three simple steps: Upload, Search, and Download. The platform is used by the U.S. Government, Fortune 500 companies, and AmLaw 200 firms, and is a favorite of small law firms and solo practitioners as well.

Why You Should Consider Logikcull...

▸ The "Culling Filters" (sometimes called the "Filter Carousel") at the top is one of the best interfaces for revealing your document metadata so you can quickly cull out files you don't need, and focus on the ones you do.

▸ The "ShareSafe" feature is an innovative way to save time and resources when sharing production sets with outside parties (expert witnesses, opposing parties, co-counsel, etc.).

▸ Logikcull offers responsive 24/7 support which is easily accessed from within the platform through a chat box. You're talking to a live person within minutes.

▸ Logikcull is a self-service tool that can be used anywhere on any device on any browser at any time. If you need to start your project now, Logikcull is a good bet.

> " *If you're a modern-day litigation team, you need a modern-day tool to review modern-day electronic evidence. Logikcull is an online software platform that lets you search, review and analyze email, digital documents, database files, social media, and much more.* "

Try Out Logikcull For Yourself!
Click here to sign up for a free Logikcull account or contact sales at sales@logikcull.com.

logikcull

Nextpoint

PROVEN CLOUD-BASED E-DISCOVERY
SOFTWARE WITH UNIQUE TRIAL-PREP
TOOLS AND ZERO DATA CHARGES

NEXTPOINT

Click to view a short video review
of Nextpoint on YouTube.

Recent Developments and Updates

▸ **Predictable Per-User Pricing with no Separate Charges for Data.** Nextpoint only charges a straightforward, per-user subscription fee with no additional charges for data in the secure platform. There are no limits, and no charges for imported data, imaged files, or production sets.

▸ **Global Account Search Helps Users Quickly Locate Documents Across all Matters.** Search for key pieces of evidence in your firm's entire population of data, or select databases.

▸ **Request Data from Third Parties and Provide Secure Access to your Nextpoint File Room.** Send a secure link to clients, co-counsel, or experts, providing time-sensitive data-upload access to your Nextpoint environment, where they can simply drag-&-drop files.

▸ **"Account HQ" Secures all Documents for Mass-Action and Serial Trials.** The Account HQ is a centralized location from which multiple co-counsel can access and collaborate on all depositions, transcripts, and exhibits related to a large-scale trial. It is instrumental in managing an any MDL or class action trial.

Nextpoint
PROVEN CLOUD-BASED E-DISCOVERY SOFTWARE WITH UNIQUE TRIAL-PREP TOOLS AND ZERO DATA CHARGES

NEXTPOINT

If you've struggled through an e-discovery project at any point in your career, chances are the experience was confusing and laborious, and based on outdated software that's been around for decades. You were chained to your desk reviewing documents since there were no options for mobile or remote access.

Or perhaps more recently you've used tools that are completely insufficient for a proper and responsible document review, such as your own Microsoft Outlook for reviewing evidentiary email or PDF viewers to open TIFF images. Creating production sets is a baffling exercise, and everything is running on an old server at your firm that's barely limping along and slowing you down.

Nextpoint offers a compelling and productive alternative to all of these challenges by offering a complete platform for your client's data taking you from complaint to verdict. The data resides in the same platform from the moment you start collecting data all the way through to trial presentation. Plus your client's data enjoys all the benefits of the robust security offered by the cloud, complete with 2-factor authentication, which is a level of data security that the majority of law firms cannot begin to replicate.

> " *Nextpoint "Analytics" tab provides a clean, interactive, visual breakdown of your documents, emails, attachments, and more. You can quickly jump into any facet of your data from here to perform bulk culling or quickly bulk code items.* "
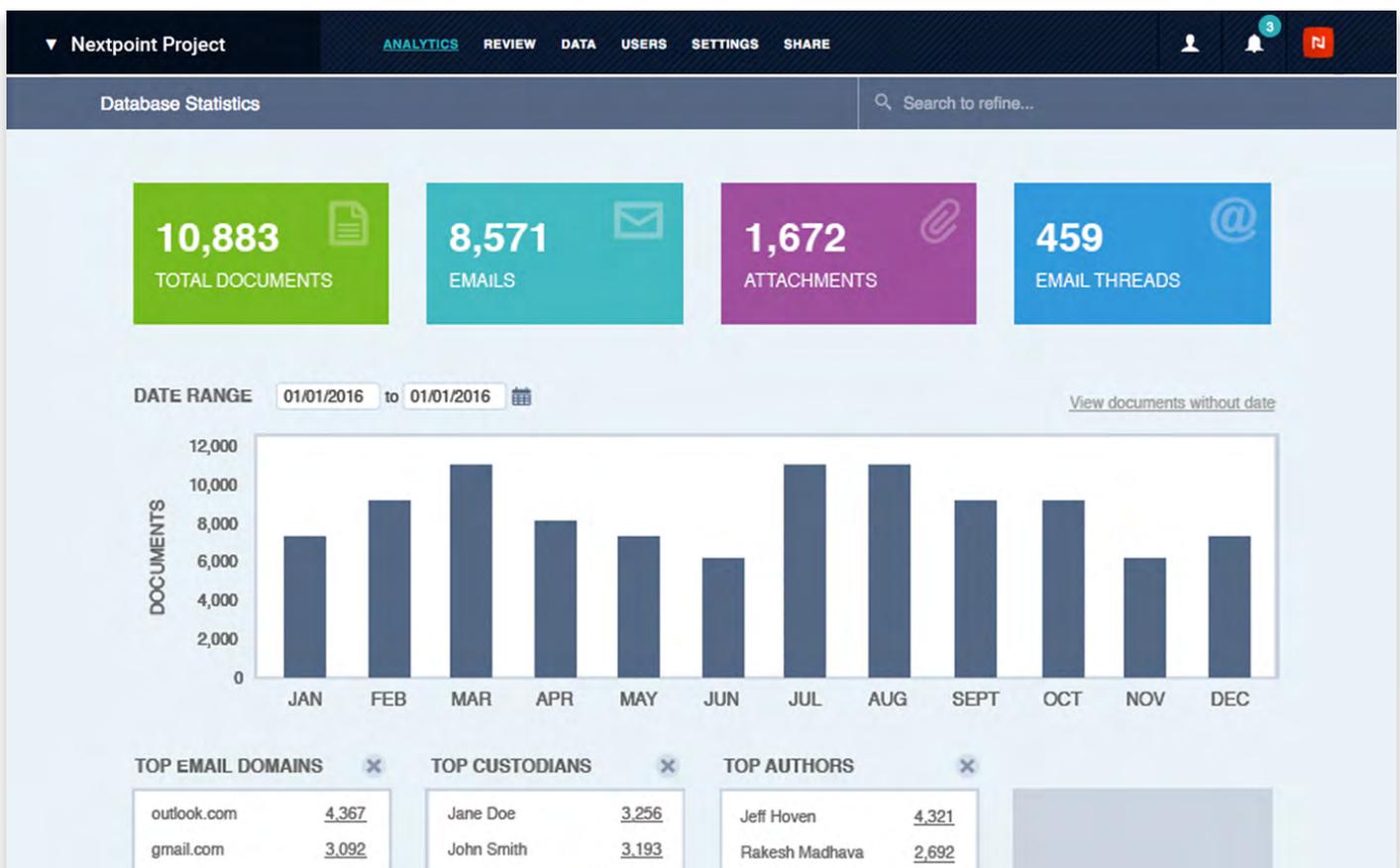
Uploading, Processing, and Data Analytics
Uploading large sets of data into Nextpoint is simple and secure, even for non-technical users. Just drag and drop or select multiple files, folders, or archives to be moved into your File Room. You can store all your firm's confidential client data in your file room, and move data incrementally into the document review tool when you need it.

The Nextpoint software then takes over and processes all selected data, automatically performing deduplication, deNIST, OCR, and methodically extracting all the metadata and content before organizing it in a searchable database, ready for document review.

Nextpoint database "Analytics" tab provides a clean, interactive, visual breakdown of your documents, emails, attachments, and more. There's a timeline view of your data, and as you make your way down, you also have a series of metrics which can be customized to your needs (e.g. domains, authors, file types, etc.) You can quickly jump into any facet of your data from here to perform bulk culling or quickly bulk code documents (e.g. easily mark all emails from @amazon.com or @espn.com as irrelevant).

Customized Search & Review
Once you click on the "Review" tab, you'll see a list of folders based on the documents and data that you uploaded into Nextpoint. Across the top of the application you have a large search box that allows you to quickly access a set of documents based on a particular search phrase or complex query. The search box has an "auto-populate" feature, and you can also save queries and access saved searches in this area.

If you prefer to use "Filters" to quickly locate a set of documents, there are dropdowns on the right side for details such as "Review Status," "Coding Fields," "Docs with Notes," and more.

> **Nextpoint only charges a straightforward, per-user subscription fee with no additional charges for data in their secure platform. There are no limits, and no charges for imports, imaged files, or production sets.**

Nextpoint also features a robust Advanced Search screen. As you complete the search fields, you'll see that Nextpoint builds the search string for you at the top so you can ensure the system is running the most helpful search.

When you bring up a list of documents in Nextpoint, the different columns can be sorted, and you can enlarge any column if you need to see more information. You can add whatever columns make the most sense for your needs, and save the layout as a custom "Template" so you can pull up the same layout later.

If you're not sure where to start, the Nextpoint services team is made up of in-house attorneys, paralegals, and data scientists who can help you with best-practice review workflows, help organize your data folders, and even create some saved searches to give you a head start.

Viewing Documents
Clicking on a document link opens the document in a new tab in your web browser. The Nextpoint Document Viewer is very clean and uncomplicated – you see your document in the main part of the window, and the "Viewer Mode" allows you to switch into a text-only view.

A handy tab lets you quickly see the Review/ Redaction/Highlight history for the document, and keeps track of every time a user viewed the document and what actions (if any) they took.

The search box in the upper right changes to "Search within Document" when you're viewing a single document. Below the search box, there is a panel for "Related Documents" that shows you any attachments to an email message that you're viewing, or other messages from the email thread.

And below that, the "Coding Fields" panel allows you to tag a document if it's responsive to your matter, and whether it is privileged. The entire coding panel can be customized to include any number of tags and codes that are helpful to your review project.

Nextpoint's Document Viewer also provides full functions for highlighting text and adding redactions. You can change the color of highlights and redactions depending on your needs. You can also add endorsements as necessary.

Modern Evidence Production

Nextpoint has made producing a document set to opposing counsel extremely simple and free. The Nextpoint allows users to electronically share a secure link to an entire export/production set. The link only allows them to view the selected document(s) and does not provide access to the rest of the database. You can also add a note to the emailed link, as well as view when accessed and set expiration. This is infinitely safer, easier and more efficient than downloading the files and sending them on an external hard drive or using an FTP site. You can also use the feature to share specific documents with expert witnesses, co-counsel, or others outside the firm.

Nextpoint also offers a unique post-review workflow they call "Exchange." When you are ready to begin with depositions and trial-prep, an on-screen wizard walks you through selecting the files to be included in the cloned "exchange" database and how to share access with others.

You end up with a unified, comprehensive database of all evidence where you can collaborate on key documents, people, facts, issues, and legal research relevant to your case.

Deposition and Trial Prep Tools

Most tools will stop at document review functions, but Nextpoint also offers useful tools for organizing and managing your post-review evidence as well. You can upload and manage deposition and trial transcripts, designations and objections, exhibits and videos in the part of the application they call "Prep."

All transcript text and fields are searchable, and Nextpoint lets you edit transcript video and create designations on the fly. There are customizable exhibit stamping workflows and custom folder options to manage key issues in your case.

When heading into trial or a hearing, Nextpoint's "Theater" allows you to present any document in a professional manner right from your web browser. Simple tools allow you to create callouts of sections of the documents and then highlight the particular text to draw your audience's attention exactly where you want it to be. A small help window provides you with the short list of keyboard shortcuts to make you look like a pro presenter.

Who is Nextpoint?

In 2001, former paralegal Rakesh Madhava began a mission to engineer an affordable litigation technology solution for law firms of all sizes. Starting life as a trial services shop, the company pioneered litigation software built on cloud architecture in 2005, and received a patent in 2008. Nextpoint is easy enough for attorneys to learn, with a customizable feature set to thrill the most experienced litigation support manager.

Why You Should Consider Nextpoint...

▸ Per-user pricing model with zero data charges brings a tremendous level of predictability and affordability to e-discovery.

▸ Full-featured, customizable document review platform with data analytics, comprehensive processing and electronic production built in.

▸ Remarkable tool for post-review case prep including deposition, transcript, and exhibit workflow, as well as trial presentation tools.

▸ Proven client service team provides responsive software support, expert data strategy services, and tactical litigation assistance.

> ❝ *Most tools will stop at document review functions, but Nextpoint also offers useful tools for organizing and managing your post-review evidence as well. You can upload and manage deposition and trial transcripts, designations and objections, exhibits and videos in the part of the application they call "Prep."* ❞

Try Out Nextpoint For Yourself!

Nextpoint cloud-based e-discovery and trial-prep software helps you manage document review, depositions, transcripts, and exhibits with keen efficiency, premium security, and predictably low cost. Talk with us today.

N NEXTPOINT

Nuix Ringtail
COMPREHENSIVE REVIEW AND ANALYSIS
PLATFORM FEATURING INTEGRATED
PROCESSING, PREDICTIVE CODING AND
VISUAL ANALYTICS

Ringtail™

VIDEO REVIEW

Click to view a short video review of Ringtail on YouTube.

Recent Developments and Updates

▸ **See the "Big Picture" of the Progress of all your Matters.** The new Organization Dashboard Summary Report provides a single-stop, visual representation of all the information involved with your projects in the Ringtail platform.

▸ **Easily Play Audio Files and Follow Along with the Transcription.** You can now play audio files in Ringtail and view the waveform. As the audio plays, you can follow along in the text transcription and even make corrections on the transcription so your searches are accurate.

▸ **More Powerful Continuous Active Learning (CAL) Technology Built into the Platform.** Additional options for configuring the "training" of the system, along with improved visualizations for following the progress of the project, enabling users to more quickly see when they have found enough documents that are statistically relevant.

▸ **New "Data Modeling" Components in Ringtail that can be Used to Track Multiple Aspects Related to the Document Review Project.** Because there are a variety of items to track in a project such as received media, evidence IDs, custodians, processed data, and so much more, Ringtail provides customizable "Data Models" right in the platform so you can avoid using multiple tools.

Nuix Ringtail

COMPREHENSIVE REVIEW AND ANALYSIS PLATFORM FEATURING INTEGRATED PROCESSING, PREDICTIVE CODING AND VISUAL ANALYTICS

When you're embarking on a document review project, you normally have to work through a spreadsheet-like list of files one-by-one-by-one-by-one. But it's abundantly more helpful to gaze at a visual representation of all your emails and documents so you can immediately see the shared concepts and topics amongst them. Even better would be a platform that would let you switch between a list and visualizations based on your particular workflow and strategies.

FTI Technology recognized the importance of these two approaches when they acquired the Ringtail platform in 2005, and the Attenex technology in 2008. FTI successfully combined both platforms into the new Ringtail 9 to produce a powerhouse document analysis and review tool. In September 2018, FTI announced it was selling the Ringtail software (and team) to Nuix, another pioneering eDiscovery software company, most well known for their processing engine Workstation.

For many organizations eDiscovery begins with data processing. And in the SaaS version of Ringtail this means integrated Nuix processing. Ringtail reduces the complexity and confusion of this task by including a wizard-based workflow for managing every day data processing jobs, while also providing access to advanced processing options like deduplication, language identification, concept extraction and social network analysis.

> ❝ *Once you get comfortable with all the visual cues in the Browse and List Panes, you'll find that Nuix Ringtail is an extremely powerful tool for quickly narrowing down a massive collection of files based on search terms or filtering by metadata and facets.* ❞

A Big Picture Dashboard
To effectively track document review projects in terms of speed, resources, and costs, it is absolutely imperative to have access to the metrics involved, such as the amount of data, user activity, progress, etc. That's why Nuix recently created the "Organization Dashboard Summary Report" which provides a graphical representation of all the available information about your projects in Nuix Ringtail. This is an excellent way for attorneys and case administrators to stay informed about the status of their projects so they can avoid surprises and simply be better informed about the progress and costs of the document review.

Browse Pane
When you run a search or browse a document collection, Nuix Ringtail presents you with a "Workspace" that can be fully customized. On the left you'll find the helpful "Browse Pane" and on the right is your list of documents.

The Browse Pane allows you to filter documents by various criteria including search terms, concepts, and "quick codes" which get set up by the case administrator. You can filter documents by Binders, Issues, and Saved Searches. The doc counts in the Browse Pane continuously update to reflect your selections, similar to how you might select different options to narrow down your purchase in an online shopping website.

List Pane
The List Pane showcases a tremendous amount of information about your files at a glance, although it's most helpful when you learn what each of the icons and colors and visual cues represent.

For example, there's a small icon to the left of each file that will look like an email message if the file is an email, or a small document if the file is a document. While file icons are nothing new, Nuix Ringtail applies a color to that little icon depending upon the coding that has been applied to the file.

> **The Nuix Ringtail platform enjoys a long and austere pedigree in the eDiscovery space and offers some of the most intricate and customizable features available in a document review platform.**

A blue icon indicates that no coding has been applied to the document; a green icon means it's been marked as relevant; and red means it's privileged. All of this can be customized by the case administrator but those simple visual cues are extremely effective in showing the status of a review.

In addition, the attachments to email messages are slightly indented from the parent email, and light gray lines indicate the beginning and end of document families.

If you're looking at a list of items after running a search, there'll be a small column showing the number of hits in each document. This is much more helpful than having to open each individual document to see the actual hits contained inside.

Once you get comfortable with all the visual cues in the Browse and List Panes, you'll find that Ringtail is an extremely powerful tool for quickly narrowing down a massive collection of files based on search terms or filtering by metadata and facets.

Visualizations
But you can only comprehend so much from a list of documents. There are many scenarios where it will be much more helpful to view a set of topics and concepts that are being discussed throughout the data to give you a good place to start your review. In Ringtail, that's when you can switch over to the "Map" (formerly called the "Document Mapper").

The Map is simply another pane that can be added to your Workspace in Nuix Ringtail, and many users will probably continue to show the List Pane of their documents on the left. The Map presents a group of files in a visual constellation based on the concepts found in the documents. Each circle on the Map represents a group of documents that are discussing similar concepts.

It's difficult to describe the visual Map with words, but once you see it applied to your own data it will make complete sense. You can zoom into relevant clusters of documents, jump to different documents, or drag the focus to a related group of files. Once you select a cluster, the List Pane will populate with the documents contained in that cluster.

If you run a search with the Map Pane in view, you'll see a colored glow around circles that contain files with your search hits. And if you then filter down to the list of documents from the Map, you'll see that again your List Pane is populated with those documents ready for you to apply codes and tags.

Viewing Documents

When you select a specific document, it appears in the viewer. While you can customize the Workspace for your needs, most users will have the Document Viewer on the far left and the Coding Pane on the far right. In the middle, you can bring up the "Related Pane" that will show you any related documents from the same family, or the email thread. You'll also see any similar or "near duplicate" documents in the Related Panel to help you see the big picture for each file.

If you perform a search and then click a document, you'll see your search terms highlighted in the document's content. If you need to redact a specific word or phrase on a document, you can search directly in the document and Ringtail will place a rectangular redaction over the word, although you can change and edit the redaction as necessary.

Nuix Ringtail confidently handles Excel spreadsheets, even letting you apply redactions to the native spreadsheet when necessary.

Conditional Coding

The newest version of Nuix Ringtail (version 9.8) now has a complete "conditional coding" feature built into the system so that an administrator can determine if certain fields and tags need to be applied based on decisions a reviewer makes. For example, if a document is marked as "relevant," Ringtail can then require the reviewer to select a specific reason why they marked it relevant.

There are also coding "macros" built into the software which are immensely useful for quickly applying a set of coding decisions. These macros appear as small buttons down at the bottom of the Coding Pane so that all a reviewer needs to do is simply click a button, or use a keyboard shortcut to apply the set of coding decisions. This is a tremendous time-saver for reviewers who have to plod through a number of similar documents and apply the same coding over and over – using a quick keyboard shortcut saves a ton of time.

Creating Production Sets

The production capabilities of Nuix Ringtail have always been extensive, but the latest version now provides an even more helpful wizard to walk users through the individual steps of creating a production set.

Each step in the production module explains exactly what decisions need to be made and whether endorsements should be applied to documents; and at the end Nuix Ringtail will quality check the entire production set to ensure everything is accurate and correct.

Who is Nuix Ringtail?

Nuix began as a small computer forensics company based in Australia, but quickly grew to provide extensive data indexing capabilities that could be used in eDiscovery, compliance, and information governance. In September 2018, Nuix acquired the Ringtail software and the entire development team from FTI Technology in order to provide a complete end-to-end eDiscovery suite for corporations, law firms, government agencies and legal service providers around the globe.

Why You Should Consider Nuix Ringtail...

▶ Ability to add a visual document "Map" to the review interface to quickly see the concepts and topics discussed in the files.
▶ Set up coding "macros" so that reviewers can quickly apply a set of tags and coding decisions to documents either by clicking a button or using a keyboard shortcut.
▶ Redact specific words and phrases by searching the document and having redactions applied automatically.
▶ Case administrator can create a "Master" case template that can be used for all new cases to ensure they are set up the same with customizations (i.e. they don't have to re-create the wheel for every new case).

> " *The Document Map presents a group of files in a visual constellation based on the concepts found in the documents. Each circle on the Map represents a group of documents that are discussing similar concepts.* "

Try Out Nuix Ringtail For Yourself!

The Nuix Ringtail eDiscovery platform helps law firms, corporations and government agencies around the world tackle the complexity and scope of today's e-discovery. Nuix Ringtail is available in a SaaS deployment model, as a managed services model with assistance from Nuix's partner network, or as an on-premises installation. For more information – or to request a demo or trial - please visit Nuix.com.

Ringtail

Cullable by Platinum IDS

IMPRESSIVE AND INEXPENSIVE CLOUD-BASED DATA PROCESSING SERVICE THAT IS EASY-TO-USE AND REQUIRES ZERO-INFRASTRUCTURE

Cullable.
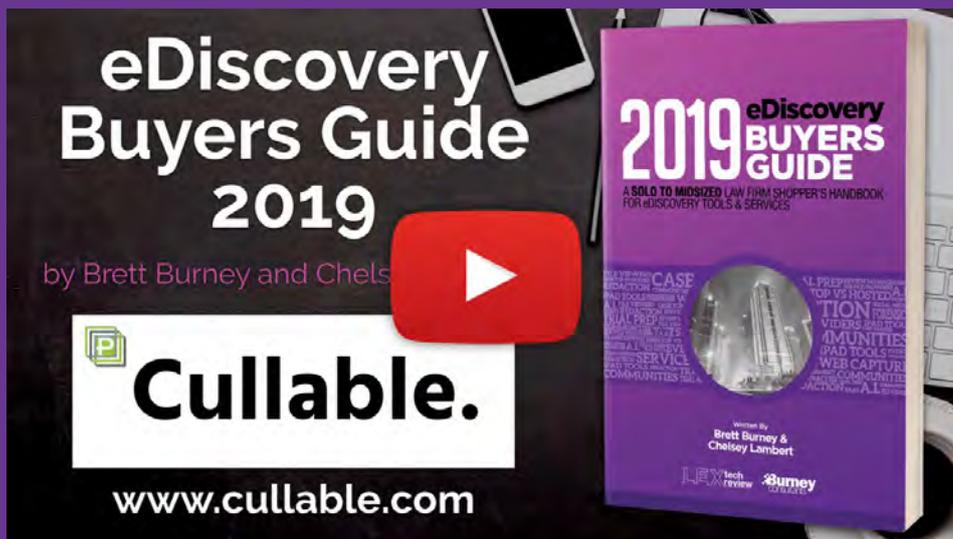
VIDEO REVIEW

Click to view a short video review of Cullable on YouTube.

Recent Developments and Updates

▶ **iConect Top Tier Award Winner.** Platinum IDS has earned the Platinum Partner Award from iConect for five years in a row.

▶ **Cost Confidence.** Platinum IDS offers all of their processing, culling, and professional services under an all-inclusive / flat rate Block (defined volume) or Project (month-to-month) based options for more predictable costs.

▶ **Cullable Can Process OCR in Over Fifty Languages.** Foreign language documents can OCR'd at blazing speeds and the content can be optionally translated into just about any language with extraordinary accuracy.

▶ **Remote, Instructor-Led Training.** Platinum IDS offers instructor-lead training remotely for customers that can be scheduled through their website.

Cullable by Platinum IDS

IMPRESSIVE AND INEXPENSIVE CLOUD-BASED DATA PROCESSING SERVICE THAT IS EASY-TO-USE AND REQUIRES ZERO-INFRASTRUCTURE

One of the most important boxes in the eDiscovery Reference Model (EDRM) is "Processing." For many lawyers, that's the technical step that just gets in the way of them being able to look at their documents. But data processing is an absolutely critical step to ensure the files that lawyers eventually review are accurate, dependable, and searchable.

In ancient days, the "processing" box mostly referred to scanning paper documents while a human "coded" relevant information about that document into a database (e.g. author, recipient, date, document type, source, etc.). Today, the "processing" phase can refer to a multitude of steps that electronically stored information must pass through before it can be reviewed with confidence.

If the files are electronic, there's no need for a human to type in who sent or received an email – all that information can be "processed" and extracted from the messages themselves. In many cases, the

electronic files will be converted into static images for easy viewing but at least the metadata can accompany each file.

In today's world of digital expertise, one might be tempted to think that processing electronic data is a problem that's already been solved, but new file types and updated software applications pose challenges all the time.

> *Think of Cullable like having access to thousands of high-end professional-class computer servers when you need them, churning through your important data and getting it ready for review.*

Platinum IDS is a litigation support service provider that has been in operation since 2001. About four years ago, they started to wonder if there were ways they could refine their internal eDiscovery workflows, and streamline operational costs so they could scale the company and their offerings while reducing the friction and costs for their customers.

The end result was Cullable. Platinum IDS looked at every aspect of the data processing components to see where tasks could be condensed through machine power, artificial intelligence, etc. The company had three basic objectives they wanted to solve: 1) they wanted to build an easy-to-use data processing platform that could work in the cloud and be available for anyone; 2) they wanted to improve the speed of converting electronic files to PDF; and 3) they sought to remove the bottleneck of OCR'ing files for customers who would have to sit in front of their desktop computer and watch it grind away at the task, thereby making the computer worthless for accomplishing anything else.

Some might say that a separate data processing platform is redundant and unnecessary. After all, most document review platforms already have processing tools built-in, but that would be a shortsighted approach.

For example, let's say you're a law firm that interviews a number of witnesses about healthcare issues or malpractice claims. You may already use a document review platform, but in order to get both the electronic files and paper documents prepped for review, you would have to manually scan and code everything, hire someone to help you, or pay a service provider to accomplish the work. And you certainly don't want to try and OCR everything yourself.

With Cullable, you could simply upload those files where they will be thoroughly and timely processed, complete with highly accurate OCR. Think of Cullable like having access to thousands of high-end professional-class computer servers when you need them, churning through your important data and getting it ready for review.

> **Platinum IDS is a litigation support service provider that has been in operation since 2001 and they created Cullable to improve their internal data processing speeds and accuracy.**

New Projects and Price Quotes
One of the best things about Cullable is that it's accessible to everyone. Anyone can go to the website and sign up for an account and get started.

When you start a new project, you're faced with the first question: "What would you like to do?" The available options are 1) OCR images or 2) convert native files into a format that can be easily loaded into a document review platform.

Data can be dragged-and-dropped from your computer, or side-loaded from a cloud-based storage service such as Google Drive, Dropbox or OneDrive. A desktop agent is scheduled for release in the coming months that will allow projects of any volume to be securely pushed to Cullable, optionally downloading the completed project to an accessible network location, notifying important contacts or even automating downstream workflows, saving time and allowing your braintrust to focus their energy on more complex tasks.

You have the option to generate a price quote before you run the job so that there are no surprises. You simply select the preferred options for your project (e.g. page endorsements, etc.) and the price quote will provide you with a per-page pricing structure that remains in the system for seven days so you can obtain approval before kicking it off.

If any of this sounds intimidating, Platinum IDS has a project management team ready and willing to help at a moment's notice.

Horsepower in the Cloud
Data processing is a computer-intensive job, and that's especially true when you're asking a computer to look at a document and attempt to recognize text characters. As humans, we can read text just fine, and even make out most human scribbling. But a computer has to be taught to recognize characters and put them together to create words … and they're getting better and faster at doing so.

Platinum IDS was built on top of the Google Cloud Environment, which is highly secure and provides Cullable with access to millions of computers when necessary. If your job needs more horsepower, those extra machines can be employed immediately.

But the machines aren't just there for speed — they're constantly learning and applying their acquired knowledge to other documents. The more jobs that Cullable handles, the better the processing engine becomes at recognizing text and even handwriting, and it's even getting surprisingly good at reading cursive writing.

Once the OCR data processing completes, there are a wealth of options for downloading your data. You can choose exactly what content will be included in the export, whether it's simply downloading the resulting PDF files, having them stamped or endorsed, or even accompanied by a load file.

Since Platinum IDS is a litigation service provider, they can certainly help you ingest your processed data into one of the review tools that they host (such as iConect Xera), or you can just download the processed files and load them into your own review platform. Or maybe you don't need to review anything before production, which means you can just send those processed files directly to opposing counsel.

While there are many document review platforms available on the market today, Cullable from Platinum IDS appears to be one of the strongest (if not the only) cloud-based tools dedicated to data processing and OCR. It is definitely worth considering the next time you have a big data processing job and need some help.

Who is Platinum IDS?
Platinum IDS was founded in 2001 with the goal of simplifying the often complex world of managing files and documents associated with litigation. The company hosts iConect Xera and Relativity databases as well as providing consulting services. They also created the Cullable cloud-based data processing tool.

Why You Should Consider Cullable from Platinum IDS...

▶ Customers are only charged for the data they are processing.
▶ Foreign languages are automatically detected on scanned documents and translation is included in the platform.
▶ Price quotes are available for data processing jobs that can be approved before the job is started.
▶ Multiple options for endorsing PDFs with Bates numbers and other stamps.

> **" Since Platinum IDS is a litigation service provider, they can certainly help you ingest your processed data into a review tool or you can download the processed files and load them into your own review platform. "**

Try out Cullable For Yourself!
Visit the Cullable website to find out more and sign up today!

Cullable.

TCDI CV Suite
EXPERIENCED EDISCOVERY SUPPORT
PROVIDER WITH TOOLS FOR LARGE COMPLEX
LITIGATION MATTERS AS WELL AS SMALLER
MORE MANAGEABLE NEEDS
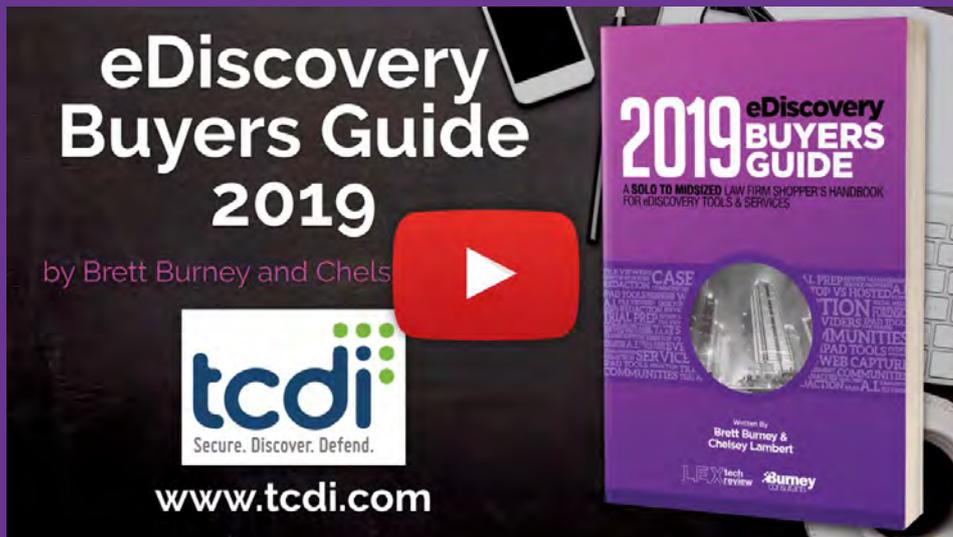
VIDEO REVIEW

Click to view a short video review of TCDI on YouTube.

Recent Developments and Updates

▸ **Keeping Document Review Engaging with Gamifiction.** It's extremely difficult to stay focused and alert when you're reading thousands of documents a day, which is why TCDI built "gamification" into their CVLynx platform to help engage document reviewers make quality decisions.

▸ **Securely Communicate with your Team.** The CVLynx platform now offers CV Chat that allows team members to securely communicate about documents and review issues.

▸ **Quicker Document Coding Options.** Users can create simple keyboard shortcuts to quickly code documents, and now even copy coding from the last record.

▸ **Easy-to-Use Predictive Coding.** CVLynx offers built-in predictive coding tools that simply suggests coding options that the reviewer can either accept or reject.

TCDI CV Suite

EXPERIENCED EDISCOVERY SUPPORT PROVIDER WITH TOOLS FOR LARGE COMPLEX LITIGATION MATTERS AS WELL AS SMALLER MORE MANAGEABLE NEEDS

Sometimes litigation matters are huge, complex, and gnarly. Other matters are smaller, easier to manage, and only require some fundamental technology to organize the electronic evidence. TCDI has been a leader in document review software for decades and fully supports both ends of this spectrum through their ClarVergence Suite, or CV Suite. These platforms were created to scale up and down to support any litigation needs, from large matters using CVLynx to small cases using CVFox. Their CVLynx platform offers every feature necessary for massive document collections in litigation matters, and the CVFox platform is perfect for small and mid-size firms with more modest needs.

More precisely, CVLynx can be described as TCDI's flagship litigation management and eDiscovery integrated platform that offers everything from email threading, embedded analytics, customizable workflows, and reporting capabilities. Matters in CVLynx are typically maintained for longer periods of time and are fully supported by the TCDI technical specialists as the matter progresses.

The typical customers for CVFox are small to mid-size law firms and in-house counsel teams that need the ability to quickly set up a matter, import documents, and review and produce them as expediently as possible. You won't find a ton of advanced analytics tools in CVFox, by design, as the platform offers all of your basic components for searching files, tagging documents, and creating production sets requested by the opposing party. TCDI describes CVFox as an "out-of-the-box" implementation that can be set up quickly for those customers that want to upload their own data and jump straight to review with minimal training.

> " *TCDI has been a leader in document review software for over three decades and fully supports both ends of the eDiscovery spectrum through their ClarVergence Suite.* "

One other tool in the CVSuite is CVOnyx, which is used on the backend for data processing before data is either moved into CVLynx or CVFox, or exported to another third party review platform. True to their 30 years of experience, TCDI develops their own proprietary software in their North Carolina headquarters. TCDI's customers have always had a heavy influence on how the company makes changes to their software to stay ahead of the industry, and after a recent rebranding of the business and product line, TCDI is poised to continue their strong influence in the eDiscovery and litigation management sector.

CVLynx
CVLynx is both an eDiscovery and Litigation Management tool. In addition to its document review capabilities, CVLynx can help you create customized workflows for your matter and handle complex outputs for productions sets. CVLynx offers counsel across multiple firms and locations the ability to compile, review, research and collaborate in a highly secure, web-based environment. Users have access to a highly customizable central repository that can handle individually unique data and file collection requirements.

From the moment you log into CVLynx, it is immediately apparent how much power and customization options are just waiting to be activated. As data gets loaded into the system, CVOnyx can be completely customized with various processing options before handing the data to CVLynx. You can basically create custom workflows based on templates so that everything is loaded quickly and accurately.

After data is loaded into CVLynx, you can start applying keywords to your data to get a better idea of what's contained in your data set. You can upload a list of search terms or create your own custom queries.

Notably, CVLynx offers a suite of visual analytics that are all dynamic so that you can drill down to find specific documents. These dynamic dashboards replace the need to run searches. One of the visual tools is called a "Concept Cloud Chart" which shows a mix of words that were found in your files – the bigger words indicate a more frequent use than the smaller words.

CVLynx also offers a set of transcript, pleadings and deposition tools that allow you to track witnesses and the different transcripts involved. In scenarios such as multi-district litigation, or class-action matters where there could possibly be hundreds of transcripts or depositions, having these capabilities are extremely helpful for keeping track of all the events and everyone involved.

Another feature of CVLynx is the ability to create custom workflows for how files move through the various review stages and get checked for accuracy in their tags. For example, the review administrator can batch files for specific reviewers on a team, and then create workflows for sending documents to second-tier reviewers to double-check their work. This all helps to support your due diligence in verifying that nothing gets inadvertently produced.

On the collaboration side, CVLynx offers CVChat which allows document review team members to discuss documents and collaborate with other reviewers. These comments are associated with specific document sets so that folks can ask questions about a particular review phase or on specific documents.

CVLynx includes powerful visualizations and time-saving features that help document review teams quickly get through large review projects. In addition to the traditional grid view, reviewers now have the option of organizing their documents into Clusters allowing the reviewer to use powerful visualizations to prioritize their documents. And lastly, CVLynx offers an amazing suite of technology assisted review (TAR) features for predictively categorizing of documents for the teams. Helpfully, there is a full suite of reporting tools for any TAR activities so that you can defend your actions when necessary.

> " *CVLynx offers a suite of visual analytics that are all dynamic so that you can drill down to find specific documents. One example is the helpful "Concept Cloud Chart."* "

CVFox

As mentioned above, CVFox is a platform that incorporates all of the power from CVLynx and packages it in a more compact platform geared for smaller and less complex matters. TCDI found that most users of CVFox are driven more by individual cases and custodians as opposed to high-end, complex, multi-district, multi-party litigation matters.

Even then, CVFox combines data processing, early case assessment, document review, and productions into a single, simplified, SaaS solution. The best part about CVFox is that you can start processing and reviewing your data sooner with minimal setup and training. Once you're logged into the CVFox system you can upload your own data via a drag-and-drop interface. CVFox offers a helpful table of folder icons that represent individual custodians so you can immediately jump into the custodian's specific document collection.

At the bottom of the screen is a box for "Data Labels" which provides further ability for filtering to certain documents either on their own, or in conjunction with a search that you perform on the database. You can search across all custodians or you can narrow the search down to a specific custodian through a helpful wizard box provided by the system.

The main method for reviewing documents in CVFox is by applying tags which of course can be customized according to the needs of the matter. When you need to track the progress of a review, CVFox offers reporting functions for the number of files that have been reviewed and also allows for workflow management so teams can ensure quality control on the files reviewed.

Lastly, CVFox includes a powerful set of production tools that allows a firm to create the production set in the form or forms in which an opposing party requests it.

Who Is TCDI?

Since 1988, TCDI (Technology Concepts & Design, Inc.) has partnered with large corporations and law firms to provide advanced litigation support software and services for electronic discovery, hosted review and production and large-scale litigation case file management. TCDI has continued to expand their offerings and added managed document review to their integrated services in 2017.

Why You Should Consider TCDI CVLynx and CVFox...

▸ TCDI provides the tools you need for large, complex litigation matters with CVLynx, as well as supporting smaller, more manageable matters with modest needs in CVFox.

▸ The CVOnyx data processing tool can be fully utilized and customized for ingesting data into CVLynx and CVFox.

▸ Compelling and dynamic visual analytics tools offered inside CVLynx to help you understand your data faster.

▸ CVLynx includes a "Thumbnail" view of documents in the database that is extremely helpful for coding similar documents.

> *CVFox combines data processing, early case assessment, document review, and productions into a single, simplified, SaaS solution. The best part is that you can start processing and reviewing your data with minimal setup and training.*

Try Out CVLynx or CVFox For Yourself!
For more information on TCDI's eDiscovery solutions visit their website.

tcdi
Secure. Discover. Defend.

Thomson Reuters eDiscovery Point
COMPREHENSIVE EDISCOVERY
SOFTWARE AND SERVICES BUILT ON
A CLOUD-BASED PLATFORM FOR
ASSESSING AND REVIEWING DATA WITH
A SIMPLE PRICING STRUCTURE

the answer company™
THOMSON REUTERS®

eDiscovery Buyers Guide 2019

by Brett Burney and Chelsea

N NEXTPOINT

www.nextpoint.com

VIDEO REVIEW

Click to view a short video review of Thomson Returns on YouTube.

Recent Developments and Updates

▸ **Secure your Documents!** Additional options for securing your documents so certain files are inaccessible for specified individuals, as well as "Field-Level Security" so that specific document tags can be hidden from view.

▸ **Added Features for Downloading Documents and Information.** Administrators can now elect to download a list of documents from eDiscovery Point with accompanying notes. You can also download the produced version of documents.

▸ **Efficiency Improvements or Review Functions.** In an effort to reduce the number of clicks, eDiscovery Point now offers more flexibility for customizing the coding panel and different button options.

▸ **Expanded Search Reports.** While search reports have always been helpful in the Pre-Review stage of eDiscovery Point, functionality has been expanded to allow customers to evaluate search terms in the Review stage as well.

Thomson Reuters eDiscovery Point

COMPREHENSIVE EDISCOVERY SOFTWARE AND SERVICES BUILT ON A CLOUD-BASED PLATFORM FOR ASSESSING AND REVIEWING DATA WITH A SIMPLE PRICING STRUCTURE

the answer company™
THOMSON REUTERS®

Wouldn't it be helpful if there was an approachable, cloud-based platform that would let you easily review emails and documents … and it was offered at a competitive price point, backed by superior technical support, service professionals, and education resources? Good news: Thomson Reuters eDiscovery Point offers all of this and more.

Introduced in 2016, Thomson Reuters developed eDiscovery Point proclaiming it a "revolutionary new SaaS web-based eDiscovery software solution." While it's certainly not the first SaaS document review platform, it has successfully differentiated itself in the market with accompanying services and a couple of prominent features designed to help users reduce the unnecessary burden of discovery and better navigate the unavoidable complexity that's typically involved.

This is not Thomson Reuter's first experience with eDiscovery software since they acquired the CaseLogistix review platform in 2010. But that background and experience has empowered Thomson Reuters to create a graceful and functional platform for data processing, data assessment, coding, review, and production.

Even more, the login for eDiscovery Point is tied to your Thomson Reuters OnePass profile that you use for other Westlaw products, meaning you can get everyone on the team up and running quickly.

> *Your eDiscovery Point subscription gives you access to a dedicated case manager along with unlimited eDiscovery education & training.*

Uploading & Processing

eDiscovery Point offers three methods for uploading data into the system. Most users will choose the "Upload" option where they can select a PST file or other electronic documents received from the client and drag and drop them directly to the system for processing and review. You can also FTP or physically send data to Thomson Reuters so they can load it for you.

All of your ingested data is scanned for viruses, OCR'd, de-NISTed, de-duplicated, indexed, and all text & metadata extracted. You can actually follow the entire processing phase through each stage with arrows telling you exactly what's happening along the way. At the end, eDiscovery Point provides a complete processing log that will report any file exceptions or other issues.

Pre-Review vs. Review

One of eDiscovery Point's pivotal differentiators is that the data you upload is not immediately put into a traditional review database. Instead, your uploaded data first goes into a "Pre-Review" staging area where you can use several tools to better understand the data, and be selective in exactly what documents you send over to the "Review" section.

In other words, do not waste your time (and your client's money) looking at every single file that you upload. If a client sends you their entire mailbox, there will only be a tiny fraction of those messages that will be relevant to your matter. You don't need to see all the emails they receive every day with news headlines, Amazon receipts, and whatnot. The Pre-Review stage of eDiscovery Point lets you weed out that extraneous junk.

> *One of eDiscovery Point's pivotal differentiators is that the data you upload is not immediately put into a review database. Instead, your uploaded data first goes into a "Pre-Review" staging area where you can use several tools to be selective in exactly what documents you send over to the "Review" section.*

There are several "Data Assessment" tools accessible in the Pre-Review stage. One of the best is "View PST" which reveals the sub-folders of an email mailbox in the same way that a user would see them in their Microsoft Outlook software. You can elect to only move certain sub-folders over to the Review section instead of all the folders. A similar tool is "View Source Path" which reveals the folders of a group of files when collected from a computer or network share drive.

Search Report functionality is also available in Data Assessment and allows you to evaluate and refine multiple search terms to decide which documents you want your team to review.

If you prefer, you always have the option to run keyword searches, or filter out immaterial documents by file types or date ranges. When you find the documents that require a closer look, just select what you need and hit "Send to Review" on the right panel.

While the Pre-Review vs. Review divide may sound like extra work, it can save you an extraordinary amount of time and money if you use it wisely. First, you can easily filter out data that would otherwise waste your time. And second, it literally saves you money because you only get charged for the potentially relevant data you send over to Review. You can keep as much data in Pre-Review as you need, and be confident that it's preserved and protected. And you're only billed for data that you send over to the Review section.

Even better, this flexible design supports the non-linear nature of litigation because as you review the documents and realize that you need to bring over more documents from the Pre-Review stage, you simply jump back over and run another search or filter, and send those extra files over to Review. And, again, you only pay for data you keep in the Review section.

Viewing Documents and Production

The Review section is where you'll see the familiar list of documents which you can view, code, and/or annotate. The layout of the document list can be customized and saved as a template. You can also group documents by family, email thread, or near-duplicates, as well as filter by a variety of metadata fields.

You can search your document collection using the same syntax that you would use in Westlaw, which is strong advantage if your firm is already using that research tool.

Double-clicking a document opens the refreshingly uncluttered "Document Viewer." Documents are presented in HTML5 format which means they load instantly and it's easy to add notes, annotations, and redactions with just one click. On the right side of a document, you'll find the coding panel that can be customized with the necessary tags (e.g. Relevant, Privilege, etc.). In addition, new enhancements have created efficiencies for reviewers by reducing the number of clicks or mouse movements needed to code documents.

Once the team is done coding the documents, creating a production set is straightforward with the help of the built in wizard to walk you through each step. After you create a production, production information, including Bates numbers, are available in the Review space to help you identify and organize produced documents for use in deposition and witness preparation or trial.

Services
While eDiscovery Point fully supports law firms that prefer to handle ediscovery in house, the Thomson Reuters professional services team, consisting of more CEDS certified professionals than any other organization, is available to help whenever something might be beyond your firm's expertise.

In fact, you'll have a dedicated case manager for your matters, and you have access to unlimited eDiscovery education and training. These premium services are included with your eDiscovery Point subscription at no additional charge. Thomson Reuters encourages their customers to pick up the phone and call them whenever you have a question - you don't have to submit a tech-support ticket or anything to get immediate service.

In essence, Thomson Reuters becomes an extension of your litigation team, especially for mid-size and smaller firms that don't have access to full-time litigation support staff.

Who Is Thomson Reuters eDiscovery Point?
Thomson Reuters is a multinational mass media and information firm, but for lawyers they are best known for their legal solutions such as Westlaw (legal research), Practical Law (legal know-how guidance), Firm Central (practice management), Elite (financial), and more. eDiscovery Point was released in 2016 as a web-based e-discovery software solution that is geared for law firms and matters of all sizes.

Why You Should Consider Thomson Reuters eDiscovery Point...
- Effective division of the platform into "Pre-Review" and "Review" stages that saves litigators time and money by effectively filtering out extraneous irrelevant data. You are only charged for data that is sent to the Review stage.
- The Pre-Review stage offers a comprehensive search "hit report" that can be used to discover what terms may be overbroad.
- If your firm is already using WestlawNext, you can log into eDiscovery Point with the same OnePass login, and use the same search syntax you're already familiar with in WestlawNext.
- Every firm receives access to a dedicated case manager that becomes an extension of your team – at no additional charge. Thomson Reuters can do as little or as much of the work for you on the platform when you need assistance.

> *Thomson Reuters eDiscovery Point has successfully differentiated itself in the market with accompanying services and prominent features designed to help users better navigate the unavoidable complexity of discovery.*

Thomson Reuters Pangea3 Legal Managed Services
WORLDWIDE ALTERNATIVE LEGAL SERVICES FOR LEADING CORPORATIONS AND LAW FIRMS

Note from the Editors:
On April 3, 2019, EY and Thomson Reuters announced an agreement for EY to acquire the Thomson Reuters Pangea3 Legal Managed Services business in an effort for EY to "greatly enhance [their] technology-enabled legal managed services in the three core areas of contract lifecycle management, regulatory risk and compliance, and investigations and litigation." This review was written with the knowledge of this news, but the acquisition was not expected to be complete until the second quarter of 2019.

It's difficult to effectively manage eDiscovery projects if you're not living and breathing it every day. That's why there are consultants and experts to help, and sometimes you need to muster a full-fledged team to bring their collective experience to bear on your matter. One of the best teams you can find is Thomson Reuters Legal Managed Services, formerly (and still) known as Pangea3.

Pangea3 is undoubtedly one of the most successful legal outsourcing outfits in the industry, and their story continues to evolve. Started in the early 2000's, Pangea3 saw an explosion of their managed review services in 2006 and 2007 with targeted work from institutional and financial services clients. As their skill and expertise continued to develop, the company was noticed by Thomson Reuters, who acquired them in 2010. That acquisition was a key ingredient in bringing the predominantly offshore company to the United States, and the company became known as Thomson Reuters Pangea3 Legal Managed Services.

> *"When a legal team works with Thomson Reuters Pangea3 Legal Managed Services, they enjoy access to a group of legal professionals both onshore and offshore that are dedicated to becoming an extension of your team."*

When you work with Thomson Reuters Pangea3 Legal Managed Services, your legal team will enjoy access to a group of legal professionals both onshore and offshore that are dedicated to becoming an extension of your team. With over 1,000 attorneys and financial professionals on their roster, Pangea3 Legal Managed Services is one of the largest employers of attorneys in India.

The list of clients supported by Thomson Reuters Pangea3 Legal Managed Services is stellar since they work directly with 4 of the top 10 largest corporations in the world, as well as 46 of the AmLaw 50 law firms. Some of those clients have been working with Pangea3 and Thomson Reuters for over 10 years.

All of this falls in line with the recent report on the alternative legal services provider industry recently released by Thomson Reuters, Georgetown Law, and Acritas that found 74% of corporations are now using alternative legal service providers compared to 60% two years ago. The report also found that 9 out of 10 of the largest law firms (over 175 lawyers) are using alternative legal service providers, along with 81% of midsize firms (30-174 lawyers) and 57% of small firms (29 lawyers or less). In fact, Thomson Reuters has seen a significant growth in midsize and small law firms using Pangea3 Legal Managed Services as a way to gain a competitive edge and land marquee enterprise clients.

The Primary Service Lines
Thomson Reuters Pangea3 Legal Managed Services oversees three main service lines today: 1) Litigation and Investigations (includes eDiscovery), 2) Contract Lifecycle Management, and 3) Risk and Compliance.

When it comes to the eDiscovery side of Legal Managed Services, the team offers so much more than simply outsourcing the dreaded document review. Pangea3 Legal Managed Services can help you develop an effective pre-review strategy all the way through the lifecycle of a matter to trial support services. This is absolutely critical for those attorneys who may only oversee only a few litigation matters throughout the year, and are willing to admit that they need some experienced help. While it may seem like a fairly routine task to oversee and manage an eDiscovery document

review project, today it actually requires a competent level of experience and expertise to ensure the job is done responsibly and defensibly. The majority of employees at Thomson Reuters Pangea3 Legal Managed Services are Six Sigma Certified and have undergone extensive training.

Thomson Reuters Pangea3 Legal Managed Services has worked on projects from a wide variety of industries including financial institutions, pharmaceutical & life sciences, aviation, manufacturing, tobacco, clean energy, telecommunications, and defense work. You would be hard-pressed to find another group of individuals that enjoy that breadth of experience and exposure.

The Logistics of Working with Legal Managed Services
All of this may sound fantastic, but you may be asking how exactly Thomson Reuters Pangea3 Legal Managed Services can specifically help you in your next litigation matter. Basically, consider Pangea3 Legal Managed Services as a way to instantly hire an experienced team to assist you with all the eDiscovery headaches you don't want to deal with.

The first step is usually a comprehensive kickoff call where the Pangea3 Legal Managed Services team can understand your goals and the general subject matter of the documents they'll be reviewing. This is where you can ask questions about the process and better understand the logistical value that Pangea3 Legal Managed Services will bring to your matter.

Lawyers don't normally set out in their careers to become "project managers" which is why one of the best components that Thomson Reuters Pangea3 Legal Managed Services brings to the table is the fact that they can manage the entire eDiscovery project from start to finish. This includes understanding the "big picture" to support your legal strategy, as well as the numerous tiny details that should never be overlooked (e.g. creation of privilege logs, coding bibles, quality checks, defensibility reports, etc.).

Once a document review begins, Pangea3 Legal Managed Services runs the project for you. During the first few weeks, you'll have daily meetings to go over questions that the review team comes across so that you can ensure the team is on point with the documents they're reviewing. You can clarify certain issues and confirm that the team is finding the documents you need. There is also a set of "calibration exercises" to further ensure that the review project is in line with your expectations and goals.

> *Thomson Reuters Pangea3 Legal Managed Services works directly with 4 of the top 10 largest corporations in the world, as well as 46 of the AmLaw 50 law firms.*

In some cases, Thomson Reuters Pangea3 Legal Managed Services will establish a "tiered document review process" where they perform a "first-pass" document review which is commonly a high-level review with the goal of culling down a large document set into a much more manageable, and presumptively more responsive, document set before moving forward. In the first tier, Pangea3 Legal Managed Services will focus on quality checks and audits before moving into a second tier where, for example, there will be more specific topics and issues that the team will focus on.

Communication is Key
One reason that lawyers hesitate to work with a group such as Thomson Reuters Pangea3 Legal Managed Services is that they believe instructions and direction will get lost in translation. Fortunately, Thomson Reuters Pangea3 Legal Managed Services has worked on plenty of projects to know how to best navigate the ins and outs of these communication challenges.

First, Thomson Reuters Pangea3 Legal Managed Services assures their clients that they will never be in the dark about the progress of their review project. In fact, one incredible benefit about the fact that so much of the Pangea3 Legal Managed Service workforce is located in India, is that the end of the day in India is typically the beginning of the workday in the United States, which means that all of the questions collected by the review team during their workday are ready for review at the start of the workday in the United States.

Second, the team members are always available to talk – if you feel you need to speak directly with the review team via phone or video-conference you can request as much and get connected promptly. This is a great way to provide additional training to the team or clarify some of the coding decisions based on the questions and feedback you see from the team.

The Thomson Reuters Pangea3 Legal Managed Services team is excellent option for any litigation team that realizes they need experienced assistance in managing an eDiscovery project.

Who is Thomson Reuters Legal Managed Services?
Started in the early 2000's, Pangea3 quickly became the major player in outsourced legal and compliance services. In 2010, Pangea3 was acquired by Thomson Reuters and was rebranded as Legal Managed Services. In early 2019, the announcement was made that EY was to purchase the entire Thomson Reuters Legal Managed Services business which will serve as the next evolution for Pangea3.

Why You Should Consider Thomson Reuters Pangea3 Legal Managed Services...
▸ Accomplished and experienced outsourced legal compliance services for innovative legal departments and competitive law firms.
▸ Comprehensive communication plans for overseeing individual reviewers and project managers on eDiscovery projects including regular meetings and "calibration exercises."
▸ Worldwide staffing options to meet any outsourcing demand and project parameters.
▸ Three primary service lines covering 1) Litigation and Investigations (includes eDiscovery), 2) Contract Lifecycle Management, and 3) Risk and Compliance.

" *Consider Thomson Reuters Pangea3 Legal Managed Services as a way to instantly hire an experienced team to assist you with all the eDiscovery headaches you don't want to deal with.* "

Are They a Threat or a Revolution? This Survey Shows That Alternative Legal Service Providers (ALSPs) Are Coming To A Law Practice Near You

the answer company™
THOMSON REUTERS®

If you're unfamiliar with the term "ALSP" then you would be well-served to continue reading, regardless of what size law firm you find yourself practicing in.

ALSP stands for "Alternative Legal Service Provider" and if that phrase only brings to mind a copy company or back office services, then you're missing a significant trend in how law is practiced and deployed in today's environment.

It's not like outsourcing is anything new, since law firms have been hiring temporary help for certain components of legal services such as legal research and document review for decades. But over the past two years, there has been a 13% increase in the growth of ALSPs and there are some other fascinating trends and compelling statistics.

The ALSP marketplace today includes the "Big Four" accounting firms (Deloitte, EY, etc.), legal process outsourcing (LPO) companies, managed services, all the way down to the contract attorneys and staffing facilities. We know there has been a

significant growth in this space because two years ago, Thomson Reuters partnered with four other organizations to study these services. That survey was updated in January 2019 called *"Alternative Legal Service Providers 2019: Fast Growth, Expanding Use and Increasing Opportunity."*

The 2019 survey reported that 74% of corporations surveyed are now using ALSPs in at least one service category, compared to 60% two years ago. On the law firm side, 9 out of 10 firms are using ALSPs, both as a competitive differentiator and as a result of client pressure. A total of 87% of law firm respondents stated they were using ALSPs, up from 56% two years ago.

And while that all might be expected for the larger law firms (175 or more lawyers), the survey found that 81% of midsize law firms (between 30-174 lawyers) and 57% of small law firms (less than 29 lawyers) are also utilizing ALSPs today in a concerted effort to expand and scale their business, differentiate their services, and retain critical client relationships.

THE SIZE AND SCOPE OF THE ALSP MARKET

	Big Four	Captive LPOs	Independent LPOs	Managed Services	Contract and Staffing Services	Total
Representative ALSPs	• Deloitte • EY • KPMG • PwC	• Allen & Overy • Clifford Chance • Eversheds • Orrick • Reed Smith • WilmerHale	• Consilio • DTI • Integreon • KLDiscovery • Mindcrest • QuisLex	• Elevate • Thomson Reuters Legal Managed Services • UnitedLex	• Axiom • Halebury* • LOD • Special Counsel • Update Legal	
Estimated Segment Revenue	$1,200 million	$300 million	$7,400 million	$700 million	$1,100 million	$10.7 billion

*Halebury was acquired by Elevate in January 2019.

- **The Big Four** refer to the largest accounting and audit firms which derive a large amount of revenue from legal services.

- **Captive LPOs** are law firms' wholly-owned captive legal services units, often located in lower-cost regions.

- **Independent LPOs** perform legal work on behalf of corporate legal departments and law firms, often via matter- or project-based engagements.

- **Managed services providers** contract for all or part of the function of an in-house legal team, typically ongoing work.

- **Contract and staffing services** provide lawyers on a temporary basis to companies and law firms, ranging from entry-level document review to highly skilled specialists.

How Are Law Firms Using ALSPs?

"Alternative legal services" are legal-esque activities usually performed by non-traditional legal service providers. In other words, they are not law firms, but they usually work in conjunction with, or at the direction of, an accountable law firm.

But ironically, ALSPs are doing more and more of the tasks that have traditionally been the domain of law firms. The top five tasks identified in the survey performed by ALSPs are:

- ▸ Litigation support
- ▸ Legal research
- ▸ Document review
- ▸ eDiscovery
- ▸ Regulatory compliance

For large and midsize law firms, the primary use of ALSPs is for "electronic discovery services." Small firms appear to utilize ALSPs a tad bit more for legal research services instead of e-discovery. The survey doesn't explore the reason for this difference, but perhaps it's due to the fact that smaller law firms don't perceive they have as much of a need for e-discovery services, or they are more constrained by price considerations.

And even though the general use of ALSPs in smaller law firms lags behind large firms, the survey found that "adoption growth [among small firms] is ballooning." The use of ALSPs in small law firms more than doubled in all top five categories over the last two years.

The top-ranked use of ALSPs among small law firms was legal research at 37% up from 11% two years ago. The percentage of small law firms using ALSPs for e-discovery services was 23% which more than quadrupled in the past two years. This kind of dramatic growth reveals a willingness on the part of small law firms to leverage the ALSP industry to be more competitive, since 43% stated that ALSPs could provide differentiation and provide access to "specialized experience" (up from just 7% two years ago).

But if law firms aren't migrating to ALSPs on their own, they are being encouraged (pressured) to do so by their clients. The number of corporations in the survey that are encouraging their lawyers to use ALSPs is 23%, up from 17% two years ago. And law firms confirm they are getting the message.

And again, the most unexpected numbers are happening among the smaller law firms. Two years ago, not one small law firm reported that their clients were asking them to utilize ALSPs. This year, 24% of small law firms reported feeling the pressure from corporate clients to streamline or supplement their services with ALSPs.

It's not easy for a law firm to embrace the use of ALSPs, since many of them frankly see the addition as a threat to the firm's billable hour. But the report found that once law firms (of all sizes) began using ALSPs, they tended

Law Firms: U.S. Trend in Use of ALSPs in 2016 and 2018

Currently Use ALSP — Small U.S. Law Firms

	2016 (n=38)	2018 (n=94)
Electronic discovery services	5%	23%
Legal research services	11%	37%
Litigation and investigation support	8%	26%
Document review / coding services	3%	14%
Non-legal / factual research	3%	7%

Currently Use ALSP — Midsize U.S. Law Firms

	2016 (n=31)	2018 (n=69)
Electronic discovery services	42%	58%
Legal research services	29%	46%
Litigation and investigation support	32%	43%
Document review / coding services	35%	38%
Non-legal / factual research	35%	36%

Currently Use ALSP — Large U.S. Law Firms

	2016 (n=101)	2018 (n=42)
Electronic discovery services	42%	65%
Legal research services	21%	50%
Litigation and investigation support	33%	52%
Document review / coding services	38%	52%
Non-legal / factual research	32%	54%

NOTE: For purposes of this study, we defined the size of law firms as follows: large law firms as those with 175 or more lawyers; midsize firms as those with between 30 and 174 lawyers; and small firms as those with 29 lawyers or less.

to continue using them and even increased their spending on those service providers.

All these numbers point toward a significant increase in the use of ALSPs for the foreseeable future, although to balance things out, 66% of firms that do not use ALSPs simply stated that they "prefer to handle [tasks] using in-house resources," even though the top concern regarding ALSPs two years ago was "data security" (which came in at number five this year). There is still a significant educational challenge facing ALSPs to convince law firms that they need to utilize ALSPs to either address a significant pain point, or provide a competitive advantage.

Starting To Work With An ALSP...
When I spoke with Thomson Reuters about their ALSP study, they provided a few considerations that law firms can assess when looking to expand their portfolio of services with ALSPs.

If you're just looking into the possibility of working with an ALSP, look for projects or tasks that can be streamlined or that will encourage efficiencies. These are the kind of mundane tasks that law firms embrace to achieve their billable hour requirement, but offloading tasks like drafting repetitive agreements or managing contracts or document review can give your lawyers more time to actually practice law, and your clients will likely appreciate the lower hourly rate and the fact that you're looking out for their interests.

From there, as you get more comfortable working with an ALSP, the relationship becomes part of your legal service offerings. So when clients bring you additional work based on the fact that you've streamlined processes and reduced their costs, you can enjoy your reputation for bringing additional value to your client relationships. As your trust with the ALSP grows, you can offload more complex and involved tasks like additional e-discovery services, advanced fact finding, drafting complex agreements, etc.

About the Study
The study "Alternative Legal Service Providers 2019: Fast Growth, Expanding Use and Increasing Opportunity" is an update of the 2017 study which was the first time the size and scope of the alternative legal services provider (ALSP) market was measured on law firm and corporate use.

The study was a joint effort from four collaborating organizations:

▸ Thomson Reuters
▸ Georgetown University Law's Center on Ethics and the Legal Profession
▸ University of Oxford Saïd Business School
▸ U.K. based legal research firm Acritas

Click here to download a copy of the study.

Zapproved ZDiscovery Platform
COMPREHENSIVE SET OF EDISCOVERY &
INVESTIGATORY TOOLS FOR IN-HOUSE LEGAL
DEPARTMENTS COVERING LEGAL HOLD
NOTIFICATIONS, DOCUMENT REVIEW, AND MORE
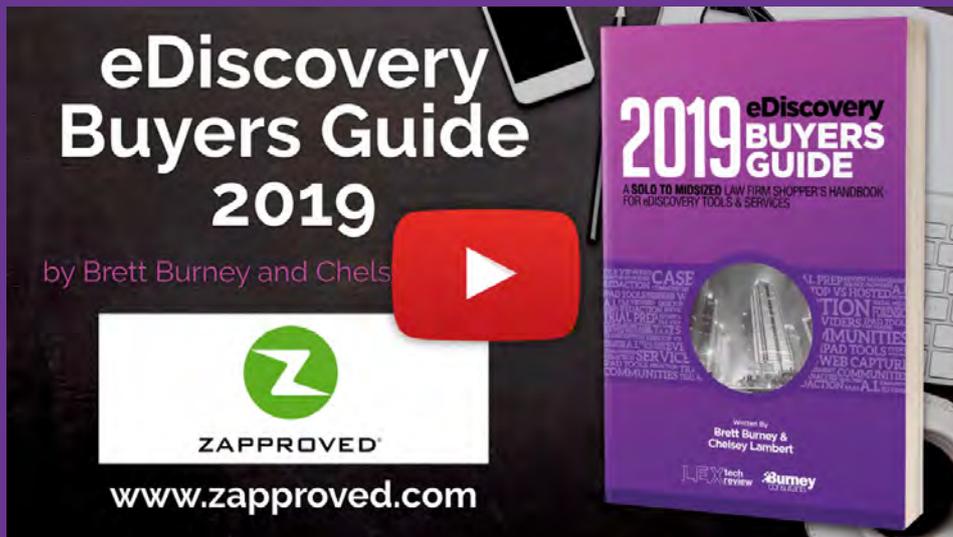
Click to view a short video review
of Zapproved YouTube.

Recent Developments and Updates

▸ **Top Legal Hold Solution.** Zapproved's flagship Legal Hold
Pro software was named a top Legal Hold Solution in The
National Law Journal Best of 2018 survey.

▸ **Strong Growth Adoption of the ZDiscovery Platform.**
The company added fifty new in-house legal teams as
customers in 2018, composed primarily of corporations
but also public agencies, non-profits, and educational
institutions. Zapproved also currently serves one in five
Fortune 500 companies.

▸ **Partnership for Collecting and Preserving Unstructured
Data.** Zapproved and Hanzo announced a partnership in
mid-2018 with a goal of increasing the connectivity and
simplicity of the eDiscovery lifecycle. Hanzo is a pioneer in
the contextual collection of dynamic web content.

▸ **2019 Corporate E-Discovery Benchmarking Survey
Report.** Zapproved released the 2019 Corporate
E-Discovery Benchmarking Survey report which
summarizes feedback from close to 250 in-house
eDiscovery professionals regarding their litigation
portfolios, eDiscovery processes, departmental objectives,
and related challenges. More information can be found at
www.corporatediscovery.com.

Zapproved ZDiscovery Platform
COMPREHENSIVE SET OF EDISCOVERY & INVESTIGATORY TOOLS FOR IN-HOUSE LEGAL DEPARTMENTS COVERING LEGAL HOLD NOTIFICATIONS, DOCUMENT REVIEW, AND MORE

If you're in a law firm, you may not give much thought to how your clients send out litigation hold notices to their employees, but you have to know this is a big headache for corporate legal teams. You might supply the legalese to be included in the notice, but it's your clients who have to send and track the communications, reply to questions, and put together a defensible report showing all their work.

Zapproved's ZDiscovery Platform offers a unique and refreshingly easy approach for solving the vast majority of corporate discovery concerns and frustrations. Cloud-based ZDiscovery is comprised of Legal Hold Pro which is the market leader today for sending and tracking legal hold communications, and Digital Discovery Pro which is a practical and coherent document review platform. It also offers add-on modules, Cloud Collect and Cloud Preserve, for preserving and collecting data from Microsoft Office 365.

Legal Hold Pro
The software that catapulted Zapproved onto the eDiscovery scene is Legal Hold Pro. At the time, the main method in-house legal departments used to track their legal hold communications to employees was by sending emails through Microsoft Outlook and then tracking responses in a Microsoft Excel spreadsheet. This was a simple problem ripe for a simple solution, and Zapproved effectively utilized the cloud to create a flexible and functional tool that anyone could use.

The "manual" method of tracking legal hold communications is rampant with risk because there's usually a single point of failure with one person who is responsible for sending and distributing the legal hold notifications. That one person usually has to send, reply, follow-up, and track all communications with individual custodians that were deemed to hold potentially responsive electronic information for a litigation matter or investigation. Ultimately, custodians are easily overlooked, and the whole manual process quickly becomes unmanageable and overwhelming.

> *Zapproved's ZDiscovery Platform offers a unique and refreshingly easy approach for solving the vast majority of corporate discovery concerns and frustrations.*

Dashboard

Matter
Mabella Yael vs. Stefan Oscar and HERK Investments ✎ Edit
The hypothetical case concerns the alleged gender discrimination and pregnancy discrimination against a senior employee at a financial services company. The plaintiff, Ms. Mabella Yael is suing her former employer HERK Investments, Inc for
Created: 9/8/2017

	Count	Size
Document Review Set Q	498	30.1 MB
Duplicates	292	41.2 MB
NIST Files Q	1	6.1 KB
Exceptions Q	9	

Contents:
- Document Breakdown
- Custodian Breakdown
- User Tags
- System Tags
  - Processing Tags
  - Exceptions

Document Breakdown *
9 Known Document Types

Document Type	Count	%
Email Q	340	68.3%
Spreadsheet Q	63	12.7%
Word Processing Q	35	7.0%
PDF Q	19	3.8%
Plain Text Q	15	3.0%
Presentation Q	11	2.2%
Other Q	8	1.6%
Calendar Q	6	1.2%
Other Documents:		

Custodian Breakdown *
10 Custodians

Custodian	Count	%	Size
Mabella Yael Q	163	25.8%	21.7 MB
Stefan Oscar Q	160	25.4%	8.7 MB
Jane Doe Q	105	16.6%	147.7 KB
Sharon Orinda Q	54	8.6%	5.5 MB
Bert Able Q	38	6.0%	1.0 MB
Ryker Ambrose Q	34	5.4%	846.3 KB
Fran Harris Q	29	4.6%	622.2 KB
HR Q	22	3.5%	383.4 KB
Other Custodians:			

* All counts and percentages are deduplicated.

Legal Hold Pro offers a more automated and remarkably effective alternative because it is no longer necessary to manually track all the communication with employees and custodians. Using Legal Hold Pro, an in-house legal department can immediately see who has been notified, which custodians have replied and acknowledged a notification, and when legal hold reminders have been sent.

All of this communication tracking creates a defensible audit trail for the company when anyone poses a question about when and how a custodian was notified concerning their legal hold responsibilities. All of this provides the in-house legal department with a strong peace of mind with the assurance that they haven't inadvertently overlooked anyone.

More recently, as corporations and organizations move their back-end infrastructure to Microsoft Office 365, Zapproved has developed their tools to connect directly with Microsoft to streamline the legal hold communications, in-place data preservations, and data collections. Legal Hold Pro can integrate with a corporation's Active Directory or HRIS when selecting custodians rather than manually inputting email addresses.

Upon logging into Legal Hold Pro, you can set up a new matter and select from any number of templates that have been pre-populated in the system. Obviously, you are free to change the text and provide specific directions to custodians regarding the steps they must take to preserve any potentially relevant information they may have in their possession.

In addition, Legal Hold Pro can be used to conduct "custodian interviews" where you can ask questions about what information each custodian possesses and where it would be located. You can ask for general information about the employee's length of employment or other questions that can help you determine if this particular individual should even be part of the litigation hold.

Legal Hold Pro can also be used to track downstream tasks using "action requests" such as instructions for IT to preserve data in enterprise systems or

> ❝ *Using Legal Hold Pro, an in-house legal department can immediately see which custodians have and haven't replied and acknowledged a notification.* ❞

perform collections. All actions taken are tracked, and simple reporting ensures tasks are completed and documented.

Once you complete the process for creating a new legal hold, each individual receives a personalized email with all of the information populated into the body of the email. At the very bottom of the email, you can elect to simply have buttons where custodians can click "I acknowledge" or another button such as "I have a question." Every click is tracked in Legal Hold Pro so that you have a complete history of what each custodian viewed.

Digital Discovery Pro
Once you've notified all of the relevant custodians and collected their email and files, legal teams then need to process and review the data to identify responsive documents. While it is possible to do this entirely in-house, many legal departments prefer to do a "first-pass" processing and review of the data before sending it to their outside legal counsel. After all, the company knows their data the best, and can make much more appropriate decisions on culling out unnecessary data so that it reduces their outside legal spend.

Digital Discovery Pro does not aim to compete with high-end, full-featured platforms, but instead unquestionably provides the exact balance of features and functionality that in-house legal departments need. If there are huge, class-action, bet-the-company lawsuits on the line, it may be better for a company to just let their outside counsel handle more of the aspects of the data collection and document review. But for the other numerous, straightforward matters such as internal investigations, slip & fall, employment disputes, contract disputes, regulatory response, records requests, etc. where data must be reviewed quickly, Digital Discovery Pro gives you rapid insight into the data.

Data can be ingested into Digital Discovery Pro directly from Legal Hold Pro or through a simple drag and drop interface. Once data is uploaded, Digital Discovery Pro will automatically index the data for searching, de-duplicate and de-NIST the data, and prepare it for review.

Digital Discovery Pro provides a colorful, visual dashboard where users can immediately determine the number of documents by file type, by custodian, etc. This provides a tremendously convenient, high-level overview of the information that must be reviewed. You can search by keywords and filter by facets such as date range, document types, email sending and more.

Search results can be sorted into email threads, which make it easy to reconstruct and follow email conversations between custodians. Users can also see email attachments and related documents.

In addition, Digital Discovery Pro will also de-duplicate the data so you're not having to unnecessarily look at duplicate documents that would just waste time. The platform also offers a "near-dupe" option that is effective at finding similar documents so you can quickly tag them in the same manner.

When your review is completed, a Production or "Export" can be created and downloaded off the system. Digital Discovery Pro offers a full suite of options for imaging documents, applying Bates stamps or other endorsements on the documents when they are produced, and creating load files for downstream processing.

Who is Zapproved?
Founded in 2008, Zapproved LLC is the leading eDiscovery software provider for managing corporate litigation readiness. Their eDiscovery software is used in many of the Fortune 500 and Global 2000 corporations to manage each step of the eDiscovery process so that in-house legal teams can be efficient and effective. The Zapproved ZDiscovery Platform is characterized by ease-of-use, scalability of processing power, data security, and exceptional accessibility.
.

Why You Should Consider Zapproved...
▶ Makes it easy to dramatically reduce e-discovery expenses by processing, culling and/or reviewing data in-house.
▶ Creates a seamless and defensible audit trail to show exactly which custodians received, read, and acknowledged the litigation hold notifications.
▶ Connects to Microsoft Office 365 to utilize a company's Active Directory for notifications, as well as preserve and collect directly from the Office 365 Compliance Center.
▶ Files can be collected from cloud-based repositories such as Exchange Online, OneDrive for Business, Box, Dropbox - all while preserving the metadata of documents and providing a detailed audit log to ensure the integrity and defensibility of the collection process.

> " *Once data is loaded into Digital Discovery Pro, users have the ability to search by keywords and then filter by data facets such as document types and other metadata.* "

Try Out Zapproved For Yourself!
You can visit the Zapproved website today and request a no-obligation ROI analysis!

ZAPPROVED

Audio eDiscovery

Nexidia

ACCURATE AUDIO DISCOVERY BASED ON
PATENTED PHONETIC TECHNOLOGY THAT
LETS YOU SEARCH AND REVIEW AUDIO
WITH EASE

NICE
nexidia

Click to view a short video review
of Nexidia YouTube.

Recent Developments and Updates

▶ **Artificial Intelligence Effectively Combined with Speech Analysis.** Nexidia Analytics was named a leader in the Forrester New Wave: AI-Fueled Speech Analytics Solutions, Q2 2018 recognizing that AI engines can provide improved analytics for speech.

▶ **Seamless Connection to Relativity Databases.** Nexidia's Forensic Search software allows a legal team to quickly access search terms and listen to relevant files in context, and then publish to a Relativity database with a click of a button.

▶ **Strong and Growing Partner Network.** Nexidia continues to expand their network of hosting, integration, and consulting partners.

▶ **Trusted by Top Government Agencies for Their Accuracy.** A number of regulatory agencies (including the SEC, FTC, etc.) use Nexidia for identifying and reviewing recordings for internal investigations as well as regulatory and litigation requests.

Nexidia

ACCURATE AUDIO DISCOVERY BASED ON PATENTED PHONETIC TECHNOLOGY THAT LETS YOU SEARCH AND REVIEW AUDIO WITH EASE

How do you currently search for a word or phrase in an audio file? Do you tap the play button and painstakingly sit and listen for hours while taking notes? Do you pay a professional transcriptionist to generate a text file? While the challenges of audio discovery are nothing new, it's the increase in potentially relevant audio and video files in litigation matters that are necessitating the use of better and more efficient tools – that's where Nexidia can help.

Nexidia has been analyzing audio for many years, sifting through an abundance of recordings from call centers and other treasure troves. Nexidia has continuously worked to make its technology even more accurate, utilizing a colossal amount of recorded audio with a wide variety of inflections, tones, and accents, not to mention call quality from clear to scratchy. All that experience and context is also available for the legal community to help explore and analyze the burgeoning growth of audio and video in litigation matters and investigations.

The technology developed by Nexidia employs an interesting twist – instead of the "traditional" method of transcribing speech to text by way of brute force, Nexidia invented "phonetic indexing" technology which they have successfully patented. Phonetic indexing means there is no need to laboriously build and rely on "dictionaries" of words, but rather language is broken down into phonemes (Nexida uses 43 for North American English). Nexidia doesn't create an index of individual words, but rather it analyzes the sounds of speech which can more easily account for the variations in accents, dialects, etc.

> *The audio waveform is already highlighted in the location(s) where the word or phrase you searched for was found – so you know exactly where to start playing the audio file.*

Phonemes are similar to syllables, but they can be smaller than syllables. Nexidia scores each potential phoneme in every time slice of audio and then puts them together to achieve extraordinary levels of accuracy when searching audio. Including more phonemes in your search leads to more precise results. For example, indexing the word "Bill" by itself could potentially lead to false positives when that sound is heard inside a larger word such as "building" or "responsible." As Nexidia assembles phonemes together, it can more accurately identify words, phrases, and sentences.

And Nexidia doesn't stop there – because of the platform's unique approach to analyzing speech, it can also detect "sentiment" such as the volume or tone of someone's voice, and recognize the individual speaker after you provide a little training for the system. Nexidia can then apply a "score" to an audio file based on the sentiment analysis, which can be paired with other metadata that accompanied the original audio file when it was loaded into the system (e.g. location, speaker, date recorded, length of recording, etc.).

Searching the Audio
All of this amazing technology wouldn't be very useful if you couldn't search or scrub through the audio. The main interface of the Nexidia Search for Legal pane is simple and straightforward. If there was metadata associated with your audio files when they were ingested, you can use those fields of information to pull up certain groups of files based on speakers, dates, etc.

But once your audio files are indexed by Nexidia's technology, many users will just want to start off searching to find the word or phrase they're interested in. They can just click in the search box at top, type in a word or phrase, and Nexidia immediately returns a list of results that looks similar to a list of files in a typical document review platform – you see a list of columns that are populated with the relevant metadata (media file name, length of recording, etc.).

> **"** *If you hear something important or noteworthy while you're listening to the audio, you can click the "Add Note" button to associate a note with that specific section of the audio.* **"**

When you select a file, you'll see the audio "waveform" at the bottom where you can click to start playing the audio at your preferred location. But the best part is that the waveform is already highlighted in the location(s) where the word or phrase you searched for was found – so you know exactly where to start playing the audio file to hear what was being discussed at that point in the conversation or recording.

In many cases, you want to know what else the speakers were talking about when they used the word you were searching for, so you can simply click "Add Phrase" to add another word or phrase to your search (i.e. "search within a search"). Nexidia provides a helpful "breadcrumb" trail at the top of the list so that you can quickly remind yourself of what exactly was included in your search. Even better, now that you have multiple words in your search, Nexidia uses different colors in the waveform to highlight each word or phrase. There's a helpful legend on the right side that tells you which color highlights which word(s). There are also options for combining individual words into a phrase if you'd like to narrow down your search in that way for Nexidia to highlight.

Lastly, if there are certain words or phrases that you would like to always be highlighted, you can set up "persistent highlighting."

Flying Through a Word Cloud
If you're not sure where to start with your search, but would like to investigate some of the prevalent themes found in the recordings, Nexidia offers the "Word Cloud" where you can immediately see certain words and phrases as larger than others, indicating that those words are spoken much more often. This gives you a good idea of where to start digging into the recordings. You can actually tweak the Word Cloud by using the provided sliders – for example, you can make the phrase length shorter or longer to change the perspective.

When you click on a word or phrase in the Word Cloud, Nexidia will show you other "related phrases" so you can keep drilling down until you find the most interesting tidbits. You can also tell the platform to pull up a list of phrases that contain a specific word. For example, you can see how many phrases include the word "money" such as "more money," "no money," "money out," etc. which is remarkably helpful to guide your search.

Audio Playback and Adding Notes

Nexidia provides a few tools for controlling and/or altering playback of the audio file. Besides adjusting the volume, you can also control the playback speed to save some time (e.g. listen in chipmunk style). All of these controls and search capabilities work even if the audio has a lot of static or interference. It's difficult to understand the power built into this capability until you actually see it (and hear it!) in action.

If you prefer to both hear and see at the same time, you can turn on the "transcription pane" that will show you the text of the audio file as you listen to the recording.

If you hear something important or noteworthy while you're listening to the audio, you can click the "Add Note" button to type a note that then gets associated with that specific section of the audio waveform. Think of it like pasting a sticky note inside the recording that you can return to later. All user activity that takes place in Nexidia is tracked so you know exactly who created a note, played a file, tagged it, etc.

Assigning and Sharing Audio Discovery with Others

The review work can be shared by grouping a set of files into a batch and assigning that batch to a reviewer or colleague. Nexidia allows you create a custom panel of Tags that can be associated with each file. These tags can simply be for "responsive" or "privileged," but you can customize them as much as you need for a thorough review. This works in much the same way as most typical document review platforms, it's just that you're able to review, listen, and associate tags with true audio files rather than text.

You can access the Nexidia platform directly through a web browser, and the company has a plugin for Relativity so you easily publish your tags and work product directly into that review database. Relativity will retain a link directly back to the audio file in Nexidia. There are also a number of legal service providers that will offer Nexidia as an option so you should ask for that whenever possible.

Why You Should Consider Nexidia Audio Discovery …

▶ The Nexidia platform is highly scalable and capable of supporting the largest and smallest litigation matters.

▶ Use file metadata along with phonetic searching to easily narrow results.

▶ Nexidia can easily analyze a wide variety of languages from Arabic to Russian to Tagalog.

▶ Ability to compare two sets of audio files so you can see what words were included and/or dropped from each file.

> " *Nexidia has been analyzing audio for many years, sifting through an abundance of recordings from call centers and other treasure troves.* "

Try Out Nexidia For Yourself!
You can find more information about Nexidia's legal solutions here.

NICE
nexidia

Veritone Illuminate
ARTIFICIAL INTELLIGENCE TO HELP YOU RAPIDLY IDENTIFY AUDIO, VIDEO, AND TEXT-BASED FILES CONTAINING EVIDENCE OF INTEREST

VERITONE.

VIDEO REVIEW

Click to view a short video review of Veritoneon YouTube.

Recent Developments and Updates

▶ **Recently Received FedRAMP Authorization for Government Agencies.** Veritone's operating system for artificial intelligence (aiWARE™) was accepted into the Federal Risk and Authorization Management Program (FedRAMP) with the U.S. Department of Justice serving as Veritone's sponsor agency partner.

▶ **Additional Support for Structured Data and Electronic Documents.** Now with expanded support for different data types and formats such as Microsoft Word and PDF files, customers can analyze and correlate sources such as public and private databases with unstructured files (photos, video, audio, etc.).

▶ **Improved Focus on speaker Separation in Audio and Video Files.** As the Veritone ecosystem continues to grow, there are now over 320 engines at work today across several new cognitive capabilities including speaker separation so that transcriptions are more accurate and complete.

▶ **More Flexibility for Implementing Veritone's Configurable Platform.** The AI tools from Veritone can be deployed through a public or private cloud environment, as well as deployment solutions for hybrid infrastructures.

Veritone Illuminate

ARTIFICIAL INTELLIGENCE TO HELP YOU RAPIDLY IDENTIFY AUDIO, VIDEO, AND TEXT-BASED FILES CONTAINING EVIDENCE OF INTEREST

When it comes to eDiscovery, we typically focus on "documents" because that's simply what we're used to dealing with in the discovery phase of litigation. But that perspective is remarkably shortsighted – today's electronically stored information (ESI) encompasses all kinds of electronic files including audio and video. The problem is that no one wants to sit down and "review" (watch or listen) hundreds of hours of video or audio searching for relevant segments.

Veritone is a company focused on artificial intelligence, and they have developed a proprietary operating system (aiWARE) for artificial intelligence (AI) which is currently being deployed in numerous public and private cloud environments, as well as deploymnets into hybrid infrastructures. While the company offers a slew of tools to analyze audio and video in the media and entertainment industries, as well as government and law-enforcement, they also provide a targeted service for eDiscovery that fills a tremendous gap in the legal market.

For legal teams, Veritone's artificial intelligence technology helps you analyze electronic media files in one of two ways. First, Veritone enjoys a strong

partnership with Relativity where reviewers can play audio and video directly inside a Relativity database, and then click a button to immediately create a searchable transcription. You can also translate the text into other languages, as well as redact both the video and text all inside Relativity.

For litigation teams that are not utilizing Relativity, Veritone offers a standalone tool called Illuminate that can transcribe audio and video files into searchable text, and then provide a method for loading the resulting data into other document review tools.

> " *Veritone is a company focused on artificial intelligence, and they have developed a proprietary operating system for artificial intelligence (AI) which is being used to review audio and video files for eDiscovery.* "

DASHBOARD   DATA EXPLORER

Media Files by Type

- Audio
- Video
- Other

94.9%
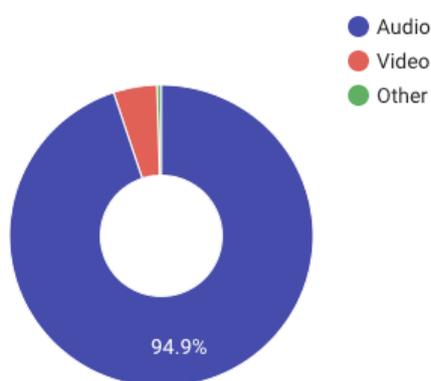
TOTAL MEDIA DURATION
349.7 Hours

TOTAL NUMBER OF FILES
2141 Files

TOTAL FILE SIZE
110 GB

Strong Partnership with Relativity

If you are a Relativity user, you can take advantage of the Veritone AI technology right inside your review database to review audio and video files. Prior to the Relativity partnership, reviewers would typically have to laboriously listen to audio and watch videos outside of their chosen review platform and manually take notes or transcribe the text. Now Relativity users can leverage Veritone's AI technology to convert media files into structured data so that it can be easily searched and accessed.

In addition, Veritone's AI engine can assist in highlighting personally identifiable information (PII) so that it can be redacted as necessary. The technology also offers "object recognition" inside videos so you can see what the videos are discussing at a glance.

You can select a movie file in Relativity and play it inside the platform. There is also the ability to transcribe the audio or video file directly inside Relativity which can then be searched. You can even select multiple media files for transcription.

If confidential or privileged information is found in either a video or its transcript, reviewers can redact that information right inside Relativity, without having to leave the platform. Veritone recently announced that their AI technology is also available in the SaaS platform of RelativityOne.

Illuminate Your Audio and Video

As Veritone realized the immense benefit of their technology for legal professionals that needed to review audio and video media files, they worked hard to offer the technology as a standalone option. Thus the Illuminate tool was developed.

More and more litigation matters today involve electronic evidence that doesn't exist in textual form such as voicemail and audio recordings, along with video files that come from mobile phones, body cams, surveillance cameras, and a

host of other similar sources. In the past, when lawyers came across these files types, they would either have to sit down and watch the file to determine its relevance, or they would have to pay a transcriptionist to generate a searchable text file.

And while there is still no complete technology replacement for a skilled human transcriptionist, the AI tools are getting better (and faster). As soon as you ingest media into Illuminate, the AI engine immediately transcribes the audio into searchable text, as well as identify faces and objects in video files.

When we talk about "searching" in eDiscovery, the first thing that comes to mind is the use of keywords and phrases that we apply to searchable text. You can absolutely search for words or phrases in Veritone's Illuminate, and not only does it show you the actual text results, but you can jump to the section of the video file where that word is used.

But that's not the only option for searching inside Illuminate since it offers a kind of "multi-dimensional" search approach that allows you to search for faces, objects, and company logos that appear in videos. When Illuminate processes a video, it can automatically detect human faces that appear in the video. You then have the ability to associate a name with those faces (similar to how some mobile phones do this for photos) so you can use the "Search by Face" option to find only those videos where a certain individual appears.

Another option is "Search by Object" which allows you to search for identifiable items inside video files. While Illuminate already has a trained AI tool to identify most common objects, you can inform the tool about the name of a particular object (e.g. a bottle of whiskey). From that point forward, you can tell Illuminate to show you a list videos that contain that object.

Similarly, you can also "Search by Logo" which obviously allows you to find specific logos that may appear in videos. And if the logo contains text, Illuminate's AI tool will try to recognize that text so you can search that way as well.

Additionally, Illuminate employs cutting-edge text analytics capabilities that enable you to "explore" your data, which helps you find relevant content without having to search for it. Illuminate automatically identifies the people, organizations, locations, and more that are found within audio or video files and visualizes that information so that you can easily browse and filter your data in new ways.

> ❝ *You can play video files right inside a Relativity database, as well as transcribe the audio into searchable text.* ❞

You can employ any or all of these methods to find a specific set of videos, or you can even narrow down your search further by date range. All of this helps you to confidently and strategically filter out the junk audio or video files that are irrelevant to your matter. Illuminate allows you to apply labels or tags to your results and then enables streamlined exporting of your data.

Data that is exported out of Veritone's Illuminate can be ingested into document review platforms such as Relativity, OpenText, iCONECT, and a variety of others. There you can search the transcribed text as necessary and view the files concurrently with your other documents.

Who Is Veritone?

Veritone is a leading provider of artificial intelligence (AI) technology and solutions. Headquartered in Costa Mesa, CA with over 300 employees, Veritone offers a proprietary operating system for artificial intelligence called aiWARE which can be employed in a public or private cloud environment, or on-premise for customers.

Why You Should Consider Veritone's Illuminate…

▸ Allows legal teams to leverage artificial intelligence (AI) to systematically turn unstructured data (audio and video files) into structured data to make it easily searchable and more valuable to their cases.

▸ Veritone's AI technology can transcribe audio and video files in over 60 languages and dialects.

▸ Secure cloud-based solution with a simple user interface.

▸ Multiple options for searching video files based on keywords, face recognition, company logos, and specific objects.

> *"Veritone Illuminate offers a multi-dimensional approach for searching video by text, faces, objects, and logos."*

Try Out Veritone Illuminate For Yourself!
Learn how Veritone is helping teams boost legal case efforts and gain actionable insights from audio, video, and text documents, click here to schedule your Illuminate demo today.

VERITONE®

Tech to Watch

Social Media Harvesting from Platinum IDS:
A New Frontier In eDiscovery

Brett Burney

It was only a few years ago that lawyers dismissed email as important evidence because it was just something that young people used. But today, email reigns as the primary source of potentially relevant information for almost any litigation matter and no lawyer would think of overlooking it. Now email is getting overshadowed by what people say and share on social media channels.

According to a 2018 Pew Research Study, roughly two-thirds of U.S. adults now actively use Facebook, and three-quarters of those users access Facebook on a daily basis. Social media usage in the United States alone has increased by 356% since 2016. And it's not just Facebook – on a daily basis, 60% of U.S. adults access Instagram, 64% visit Snapchat, 46% visit Twitter, and 45% visit YouTube.

We know there's a treasure trove of rich and juicy information being shared through social media, but how do we collect and preserve it for litigation? And once we get it, how do we ensure that it's admissible?

Platinum IDS noticed they were receiving more and more requests from their clients to collect social media, so they did a little research on Westlaw to see how big the problem was. They found 1,100 instances just from 2018 where social media was used in cases, but it wasn't admissible because it could not be authenticated. That was just on cases that were reported and published – there must be many, many more cases where social media evidence was relevant to a decision or investigation, but the discussion was never recorded.

It should go without saying that social media evidence is not limited to traditional civil litigation matters – the topic absolutely arises in criminal cases, domestic issues, and more. One reason is because social media isn't just about what someone said or shared; there's usually additional information about the location of the poster. In a licensee holdover proceeding, the court in Renaissance Equity Holdings v. Webber, 2018 NY Slip Op 28241 (Civ. Ct. Kings Co. July 27, 2018) ordered the respondent to produce all of her social media posts (Twitter, YouTube, Facebook, etc.) to help prove or disprove whether she primarily resided at a certain location for the last two years.

Platinum IDS realized there was an opportunity to help their clients by developing a tool to effectively capture social media currently offered as a service-on-demand. Working through the Google Chrome web browser, Platinum IDS can capture virtually unlimited information from a website, blog, or social media platform and provide that capture with a full chain of custody and forensic hashing so that it can be easily authenticated. The collected content can be imported as records into a traditional litigation support review platform, or supplied with compatible load files including EDRM XML.

Based on the prevalence of social media, it's surprising (and unfortunate) that more companies are not offering similar tools to respond to the needs of today's litigators. The social media capture tool from Platinum IDS is absolutely worth watching in 2019 as a viable option for your social media capture needs.

Casetext and Tracers Announce Strategic Partnership

Public records and legal research companies join forces to deliver expanded search capabilities.

Brooksville, FL & San Francisco, CA – July 9, 2019 – Casetext, the leader in modern legal research solutions, and Tracers, one of the leading data providers for professional public records searches, announced a new strategic partnership to provide cost-effective investigative resources for lawyers and law firms using Casetext. With this partnership, Casetext subscribers will be able to access critical public and business records at a fraction of the cost they have previously paid other providers. Tracers has a decades-long history of providing highly detailed and timely people and business data intelligence to fraud prevention specialists, law enforcement, and private investigators. Over the past year, Tracers has also become the go-to resource for attorneys in a variety of practice areas that demand extensive public and business records.

"Reliable, high-quality search results are critical for attorneys to do their best work," said Jake Heller, CEO of Casetext. "Tracers not only delivers thorough people and business record information to researchers — they also have demonstrated a rare ability to treat their customers with outstanding care."

"Casetext is a proven leader in legal research and has demonstrated that advanced technology can deliver better and more cost-effective results than legacy search products," said Erik Pickering, President of Tracers. "As a company, we are committed to providing the concierge-style service legal professionals often require to achieve the best possible results. We are delighted to announce this partnership which adds value for Casetext members."

About Tracers

For over 20 years, Tracers has empowered law enforcement, private investigators, collection professionals, fraud prevention specialists, litigation attorneys and the background screening industry with the comprehensive data they need to conduct investigations, support litigation, screen job candidates and property renters and assist collection efforts. Tracers' pioneering search technology and cutting-edge innovation offers access to billions of public records and proprietary data sources throughout the world and their hands-on approach to solving unique data requirements allows them to tailor custom solutions for any client needs. For more information, visit www.tracersinfo.com.

About Casetext:

Casetext makes innovative legal research tools that enable litigators to find better results, in less time, for less money. Its award-winning technology modernizes conventional legal research through features such as intelligent filtering, judge-written case summaries, and A.I. search functionality that tailors researchers' results to their litigation. Founded by a team of former litigators as well as Ph.D. data scientists and leading A.I. engineers, Casetext is committed to advancing justice by empowering attorneys to provide high-quality and efficient representation. For more information, visit www.casetext.com or contact our team at contact@casetext.com.

Tracers Product Review:
How Law Firms are Leveraging Advanced People Search Data to Get Results

Chelsey lambert

Law firms have long used public records search data to find persons of interest, witnesses, defendants, and debtors, even to research potential jurors or businesses. For some practice areas, search needs have expanded to include social media profiles, both current and historical. In a recent interview with the team at Tracers, they shared how law firms are applying the advanced search capabilities of Tracers to everyday casework.

With a growing number of law firms seeking out cost-effective access to public records, asset records and detailed person search history, the recently updated Tracers platform is providing exactly what attorneys are looking for — and so much more.

Basic People Search
Contact information, residence and verifiable addresses are not always disclosed or readily available to the law firm when a new case or project comes in. Tracers databases are continuously updated to provide the most relevant contact information and address history for a party. Most commonly used by debt collection attorneys, there are also several use cases in the areas of business law, real estate, family law, immigration and more.

All Tracers searches will return that include both exact name matches as well as any aliases found. Further refine results by location, Social Security number, phone number or other piece of unique information. Tracers will then display the top five most recent addresses which, if clicked, will show the Google street view. A full history of all the recorded addresses is available by selecting "all addresses."

If there is a reason to reach out to friends or family members of the person of interest, Tracers displays all related family members and spouses with indicators of the relationship and other information. A diamond is displayed next to a name if that person is a possible husband, wife or partner; while first-degree relatives' records can be expanded to access phone, social, address and other information to track down "couch surfers."

Beyond the Basics — Tracers Comprehensive Report
The practice of law involves uncovering facts and finding information that is needed. Traditionally, lawyers would work with bail bondsmen or private investigators to track down the location of a witness or a criminal. However, there are several other scenarios where public records or social media information can be applied — such as insurance defense, collections work, immigration or trial jury selection — trends that Tracers users are proving to be true, repeatedly.

Typically, Tracers users begin their search by using the a la carte search options but, over time, they often move to ordering the full comprehensive report. That report is uniquely helpful because it searches a deep set of records nationwide.

Social Media Report
We could do an entire demo on the use of the social media search capability of Tracers. In one seamless report, all current and active and inactive social media profiles can be found. This is a tool that has been used for both finding a person of interest and also to document social media activity for use in ligation.

All reports can be exported into the file format of your choice: PDF, Word, or Excel. A law firm's logo can be added and sensitive information can be masked, such as Social Security numbers, before sharing the document in court or with a client.

Repeat, Delayed or Ongoing Searches
The Tracers ID assigned to each contact record can be used to run a search again at any time. Delayed searches can be set up to pull ongoing information on the status of a party. For ongoing searches, all previously searched contacts are saved using the Tracers ID in the law firm's account history. The most common uses are for social media reports, because a user's profile is often disabled and then re-enabled, or locations are changed, providing ongoing evidence of activity that can be used in litigation.

World Class Customer Service

The search process can be a bit daunting for first-time users because the platform provides different information than traditional legal research tools. Tracers eases this learning curve by offering one-on-one demos and ongoing white-glove support. With over twenty-three years of experience in advanced public records and people searching, their expertise and customer centered approach is unique.

To give you an example of how committed Tracers is to helping their law firm clients get results, every morning the support team receives a report of searches that garnered zero results. Tracers then proactively reaches out to those users to offer assistance. There are few things more rare than proactivity on the part of a provider!

Track and Bill Individual Records Search Costs
Every search is assigned a Reference Tag which is a great option when going back to search again, or to expand to include records or send to bookkeeping for billing.

Advanced Account and User Management
As records searches are often specific to work done for one particular client or case, account management is more advanced within Tracers than in most traditional search platforms. The following management options give law firm administrators the ability to prevent the misuse of search functionality for personal purposes.

Permissions can be tracked and restricted by user or IP address. A user's search history can be reviewed at any time to spot-check their work or to restrict users from "types of search" by practice group or staff level. Accounts can be managed by restricting each account to only be able to search for specific data types.

Track and Bill Reporting Costs Specific to Project or Matter
Within Tracers' search history log, users can produce a statement of report costs specific to a client or matter. Administrators can use the same search history to monitor the firm's spend and usage and compare comprehensive searches versus individual records searched over time, thus determining the most cost-effective process possible.

Who Is Permitted to Use Tracers?

As you can imagine, the type of data provided is heavily regulated … and should be. When an attorney requests access to the Tracers platform, there is a validation process that is listed below. After approval, the designated staff are invited to begin the onboarding process.

1. The attorney is an active bar member "in good standing"

2. The law firm is registered with the state as an LLC or partnership

Advanced Account Security and Administration

Once the law firm has been approved as a Tracers client, each user must be validated and created within the account. First, each staff member is validated using a photo ID. Second, an IP address is matched to the staff member's account.

By restricting a user's access by IP address, the law firm can then set usage hours and location to ensure that the staff member is not able to conduct unauthorized searches from home or outside of the office. Even the account owner, or managing partner, is unable to overstep these boundaries unless they notify the Tracers customer service team. No international use is authorized unless it is pre-approved before the travel dates and registered with the Tracers client support team. These procedures protect both the law firm and the public from abuse of the people search data.

In Summary

With only a handful of options for public records data available to attorneys, Tracers stands above the rest by offering exemplary service, seamless search tools and transparent pricing. Attorneys will find that working with Tracers is akin to a partnership — not just a per-search transactional relationship.

Try Out Tracers For Yourself!
To learn more about Tracers, or schedule a demo visit Tracers for Legal Professionals.

Tracers

Hanzo launches new legal hold solution for slack: offering precise control and a lean approach to slack data management

Meet information governance policy requirements and comply with the duty to preserve for Slack

New York, NY (May 16, 2019) - Hanzo, the company known for its pioneering technology in dynamic web archiving for compliance and ediscovery, today announced Hanzo Hold to bring a lean approach to Slack data management. Hanzo Hold is a module within the Hanzo Dynamic Archive Platform, that augments its archiving support for Slack, the collaboration hub that connects teams to the people, data and tools they use everyday to get work done.

Hanzo Hold empowers organizations to apply a legal hold to enterprise Slack data and to adhere to data retention policies while meeting the duty to preserve data for litigation and compliance use cases.

Organizations around the globe use Slack Enterprise Grid to power team productivity and administer multiple interconnected Slack workspaces across your entire company. The solution adapts to how an enterprise is organized and allows employees tremendous flexibility to interact and work collaboratively on shared apps and files with ease, from a centralized location. Companies subject to a litigation hold, or organizations in highly regulated industries, however, are legally required to meet retention and/or oversight guidelines such as those stipulated by the Securities and Exchange Commission (SEC), or the Financial Industry Regulatory Authority (FINRA).

For these highly regulated organizations, automatic and defensible archiving of enterprise Slack content is mandatory. In the case of a litigation hold, corporate legal teams need even more control over the custodial data that is being preserved so that organizations can precisely preserve only the data that is needed and nothing more, limiting enterprise risk.

"We've partnered with Slack to extend the power of our integration and to connect Slack Enterprise Grid customers with unique and innovative avenues to address their specific information governance and eDiscovery needs," said James Murphy, VP of Product, Hanzo. "Hanzo's legal hold solution for Slack gives legal teams the precise control necessary to preserve data that is subject to legal hold and mitigate the risk of retaining unnecessary data."

With the integration, Slack Enterprise Grid customers can use Hanzo Hold to control their Slack eDiscovery and respond effortlessly to eDiscovery and audit requests:

▸ **Map Slack** workspaces without copying them to help your team quickly identify the scope of information that is subject to preservation requirements - without multiplying your data risk.

▸ **Scope and manage the preservation** of Slack data by custodian, channel, group or direct message or with an easy-to-use interface that puts you in control of the data associated with your legal hold matters.

▸ **Empower** your governance and legal teams leveraging Slack's native retention capabilities, knowing that data on hold is preserved in Hanzo Hold, long after its retention schedule.

▸ **Analyze and assess** preserved data with advanced text and metadata search for rapid insight.

▸ **Review in context** Slack media and messages at the channel level for the full picture.

▸ **Export data** directly from Hanzo into the review platform of your choice to easily share with Legal or HR teams.

Hanzo Hold is available for early access through June at an introductory discount or general availability on July 1st. Learn more by visiting https://www.hanzo.co/slack-legal-hold.

About Hanzo
Hanzo is solving the single biggest challenge in legally-defensible compliance and litigation today—contextual investigation, capture, and preservation of dynamic web content. Through the Hanzo Dynamic Archive platform, we investigate, hold, capture and preserve team messaging data, social media engagement, and interactive web content then replicate it in legally-defensible native format for analysis, review, and production. Launched in 2009, Hanzo serves government agencies, enterprises, and top law firms across the globe. Learn more at hanzo.co

Opentext setting up a dominating ediscovery software suite to conquer document review, analytics, data processing, and more.

opentext™

Brett Burney

If you're a company that already commands a significant share of the enterprise information management market, how do you successfully make your move into the eDiscovery world? You simply invite some of the most innovative and well-known names in that space to join you and then fuse them into something better.

At the 2019 Legaltech Conference, I had the privilege of spending a few minutes with Adam Kuhn, Director of Product Marketing at OpenText Discovery. Adam shared the backstory regarding OpenText acquiring Recommind and Guidance Software which successfully brought two formidable eDiscovery software developers under one roof.

One thing Adam failed to mention in our meeting, however, was an additional trick he had up his sleeve. The day after the Legaltech Conference ended, OpenText shared a press release announcing the acquisition of Catalyst Repository Systems, Inc. (Catalyst) which had established one of the strongest tools for predictive coding and continuous active learning (CAL). We reviewed Catalyst Insight for the eDiscovery Buyers Guide, and this acquisition provided OpenText the opportunity to accomplish the goal Adam shared with me: "to build a seamless enterprise discovery platform."

It was 2016 when OpenText acquired Recommind where Adam had been an eDiscovery attorney and product marketing manager. Recommind boasted a stellar collection of powerful products for analyzing data including Axcelerate and Perceptiv. About a year later, OpenText acquired Guidance Software, developer of the highly regarded and well respected EnCase software for computer forensics and enterprise eDiscovery. The acquisitions were well-calculated to cover the broadest phases of the Electronic Discovery Reference Model (EDRM) – as Adam put it, "where Axcelerate is weak, EnCase is strong." Now with the addition of Catalyst, OpenText offers one of the most well-rounded set of Discovery Solutions.

OpenText Discovery is expertly situated to support any eDiscovery scenario, but there seems to be a particular focus on the needs of corporate legal departments and legal operations. In fact, OpenText released "The Legal Operations Tipping Point" white paper earlier this year which found that 74% of the participants reported that it would be beneficial for their legal department if their enterprise content management (ECM) system were integrated with their eDiscovery system. It just so happens that OpenText runs one of the top ECM ecosystems, so the eDiscovery acquisitions sets them up nicely to fully support the needs of corporate legal departments.

OpenText Axcelerate is a complete solution for helping legal teams quickly identify the facts swirling around a matter for litigation or compliance. The platform offers robust early case assessment (ECA) tools along with smart filters, phrase analysis, and predictive coding components.

Opentext Decisiv is an enterprise search engine that allows legal teams to really go beyond simple keyword search terms, and provides robust options for concept searching, phrase analysis, visualizations, and more.

OpenText EnCase eDiscovery provides a wide visibility into a wide variety of "endpoints" such as personal computers, mobile devices, and network servers. The EnCase solution provides data processing, legal hold management, and powerful analytic tools.

Catalyst (now OpenText) offers Insight Discovery as a powerful, integrated, multi-matter platform for the Enterprise. Insight Discovery also offers one of the most battle-tested continuous active learning (CAL) systems for technology assisted review (TAR).

It will be immensely interesting to watch Adam and his team integrate all of the pieces and parts together to continue developing the full suite of eDiscovery solutions for OpenText.

**Thank you for reading,
let's keep in touch!**

**We appreciate the time you
spent learning more about
the eDiscovery options
available to your law firm. New
products, feature updates
and announcements happen
throughout the year. So, to
help you stay informed we have
expanded the eDiscovery Buyers
Guide to include additional
online resources. Follow us on
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MANAGING E-DISCOVERY & CLIENT PROVIDED DOCUMENTS AT A FIRM WITH AND WITHOUT DOCUMENT MANAGEMENT SOFTWARE

Paul J. Unger, Esq. (punger@affinityconsulting.com)

THE SITUATION:

The firm is using a combination of some discovery management tools, Windows folders, and the Document Management Software. It is common for firms to bend their document management software (i.e. iManage, NetDocuments, Worldox, OpenText) to house/manage case discovery.

WHEN IT IS APPROPRIATE TO USE DMS SOFTWARE TO MANAGE DISCOVERY

DMS programs are designed in large part to manage a law firm's **work product**. With a few exceptions, DMS programs were not designed to manage discovery or evidence. DMS programs work well for discovery in some specific situations. Let's discuss those situations.

IMPORTANT CAVEAT(S): First, whenever you load/import ANY documents into a DMS program, always preserve the originals on the media where it was delivered or a secured preservation drive, without opening or viewing those files. Only load/import a COPY of those files into the DMS, leaving the originals in place. The reason for this is simple. When you import files into a DMS program, most DMS programs will alter the metadata or the file's creation date. That date **may** be critically important! E-discovery programs typically handle this date differently or provides a method of preserving the files' metadata and integrity. Second, you may want to apply a read-only attribute to these files once they are imported into your DMS. Any modifications that you make would then be forced to save as a different file (redacted, annotated versions, etc.). Third, we often recommend that you create a "preservation drive" on your local network and use a utility like Robocopy so the metadata associated with those files is completely preserved (unchanged). The preservation drive contains an unadultered copy of the discovery, and obviously you only want highly trained individuals to have access to this drive, so the files and metadata are protected. Finally, you may want to create a "working drive" on your network with a copy of documents, video, etc. for users if they need to be able to manipulate the files, etc. This is often helpful when you don't want to use your DMS (or can't use your DMS) for files like video, video surveillance, law enforcement body cam footage, etc.

SITUATION ONE: YOU JUST NEED A SEARCH ENGINE FOR FULL TEXT SEARCHING

If you only need perform a full text search on documents, provided that they are Word, PDF, MSG, Word Perfect, PowerPoint, Excel files, and *not* PSTs, or QuickBooks data files (DMS programs cannot index PST files, etc.), then you could import those files either into the matter or a separate dedicated discovery cabinet and take advantage of the DMS program's search engine and OCR tool. There is absolutely nothing wrong with this. We sometimes recommend a separate discovery cabinet in your DMS program so you do not "pollute" or co-mingle your work-product with discovery items. As a general rule, we should try not to co-mingle your work-product with discovery or evidence. We didn't do that in the paper world, and we believe there are even more compelling reasons to not co-mingle in the electronic world. We

analogize this to a police officer at a murder scene placing the bloody knife in his/her pocket and bringing it back to the police station, instead of placing it an evidence bag, preserving forensic integrity. Having a dedicated discovery cabinet affords you the ability to maintain discovery organized by client/matter (there are many ways to do this depending on the DMS), and at the same time take advantage of the DMS program's indexing and searching. This also could give you the ability to apply security, letting only those individuals the rights to the documents who should see them. It also allows you to easily archive or delete those files once you are finished, without compromising your work-product documents. This situation would be appropriate for a small <u>or</u> large amount of discovery. The amount of the discovery really doesn't matter (provided you have the hard drive space). <u>Remember our caveat above – import a COPY of these documents and *not* your original electronic files!</u>

SITUATION TWO: SMALL AMOUNT OF DISCOVERY WITHOUT SOPHISTICATED NEEDS

If you have a relatively small amount of discovery, and you <u>don't</u> have sophisticated needs (the need for tracking production sets *produced*, tracking production sets *received*, issue tagging, bates numbering, generating privilege logs, creating custom codes, etc.), your DMS program may be able to handle that discovery. <u>Remember our caveat above – import a COPY of these documents and *not* your original electronic files!</u> We would still highly encourage you to create a separate cabinet, so as to *not* co-mingle your work-product with discovery for the same reasons discussed above. Some DMS programs allow you to create custom tags (i.e. Worldox can do this through the use of custom "categories" under each matter; iManage and NetDocs can do some of this through custom created folders under each matter).

SITUATION THREE: CLIENT PROVIDED DOCUMENTS

Perhaps you do transactional work and your client provides you with 100 Excel spreadsheets and flash drive (or bankers' box) with a bunch of agreements or other documents to review. Another common scenario is receiving medical records from your client (for the plaintiff or defendant). Creating a "preservation copy" to protect the metadata **may or may not** be needed. The responsible lawyer must assess this situation with the client and exercise his/her discretion. In this type of situation, you probably wouldn't invest in a discovery management tool to organize this information, and nor should you. We recommend saving these documents within your DMS program along with your work product, but segregating them by creating a dedicated document type (usually one of the field options when you save a document within a matter) called "Client Provided Document" or "Medical Records". If needed, some firms/legal departments will make these client-provided documents read-only to preserve what was originally produced to them. Since in most of these situations we are only talking about a handful of documents (one to a thousand files), using custom tags or folders (depending on your DMS program) would be easy enough to organize everything. Although, this may be a little more work than throwing everything into a Windows folder, the payoff of getting full text searching and database tag filtering makes it well worth the little extra time.

When one receives a hard drive with thousands of documents/computer files contained within folders that have endless subfolders, this sometimes poses a challenge with your DMS program. There are a couple strategies to deal with this. The first is deconstructing the subfolders and importing the documents to somehow fit within your DMS program's rigid field structure. This is the most tedious and sometimes leaves you feeling like you are trying to fit a square peg into a round hole. One must rely on the DMS program's use of tags, categories or virtual subfoldering capabilities in an attempt to mirror the subfolders that were produced. The second approach is to leave the folder structure in place and save it documents on a local server, and then possibly pointing your DMS program's indexing & search capabilities at that folder structure so you can take advantage of the search engine. You would organize a file share on the network something like this: E:\DiscoveryCabinet\Client\Matter\Production Description.   If using

something like NetDocuments, you could upload the entire folder structure, keeping that structure as-is, into a folder-based cabinet. The benefit of this is you do not have to spend countless hours re-organizing it.

WHY DISCOVERY TOOLS SHOULD BE USED TO MANAGE DISCOVERY

While there are ways to "bend" or add a little glue to DMS programs to perform some of these needs, real discovery tools manage these situations very well.

1. Discovery tools are designed to preserve metadata
2. Discovery tools have a large number of custom fields
3. Discovery tools have pre-built fields to track issues, confidentiality, tagging docs as privileged, etc.
4. Discovery tools track production sets sent and received
5. Discovery tools can create privilege logs
6. Discovery tools can Bates number
7. Discovery tools can Redact
8. Discovery tools can handle PST files
9. Discovery tools can handle Quickbooks data files
10. Some discovery tools can store large video files, especially those produced by security and law enforcement surveillance systems.

THERE IS NO ONE-SIZE FITS ALL E-DISCOVERY SOLUTION

Frankly, we wish that we could tell a firm or legal department that there is a single one-size-fits-all e-discovery tool. That product doesn't exist. The healthiest way for a firm or legal department to look at this issue is to view each matter on a case-by-case basis and then decide what tool in your discovery toolbox is most appropriate.

WHEN IT IS APPROPRIATE TO USE A TOOL LIKE RELATIVITY, ECLIPSE, DIGITAL WAR ROOM, ETC. TO MANAGE DISCOVERY

- Larger cases with a lot of data
- Smaller case with sophisticated needs (complex review, tagging, filtering, etc.)
- Your client has the budget to use it
- You need to collaborate with others outside your office (co-counsel, your client, etc.)
- Review, tagging and production sets
- PST files, Quickbooks data files, etc.

OTHER TOOLS TO CONSIDER

If you are looking for a good, secure cloud alternative for smaller cases, you should consider adding one of these to your litigation toolbox. The beauty behind the below cloud solutions is that you can use them for a single case and not be married to the solution. You could extract your data from it when the case is over or if you want to switch solutions. These solutions are inexpensive, easy-to-learn, have all the collaboration benefits of cloud, can handle PST files, and can be billed back to your client as a case

expense. Insofar as functionality goes, they generally are appropriate for many of the same situations as a tool like Relativity, except that Relativity is used more frequently for larger cases and Relativity's interface is still considered to be the best and the "gold standard" (but that comes at a premium).

Logikcull (www.logickull.com)
Lexbe (www.lexbe.com)
NextPoint (www.nextpoint.com)

RECOMMENDATION:
Invest in a technology toolbox of discovery tools, and with the few exceptions outlined above, don't try to use DMS software to manage your discovery needs.

Biography of Paul J. Unger

Paul J. Unger is a nationally recognized speaker, author and thought-leader in the legal technology industry. He is an attorney and founding principal of Affinity Consulting Group, a nationwide consulting company providing legal technology consulting, continuing legal education, and training.

He is the author of dozens legal technology manuals and publications, including recent published books, *Tame the Digital Chaos – A Lawyer's Guide to Distraction, Time, Task & Email Management* (2020) and *PowerPoint in an Hour for Lawyers* (2014). He served as Chair of the ABA Legal Technology Resource Center (2012-13, 2013-14)(www.lawtechnology.org/), Chair of ABA TECHSHOW (2011)(www.techshow.com), and served on the Executive Committee for ACLEA from 2017-2019. He is a member of the American Bar Association, New York State Bar Association, Columbus Bar Association, and Ohio State Bar Association. He specializes in document and case management, paperless office strategies, trial presentation and litigation technology, and legal-specific software training and professional development for law firms and legal departments throughout North America. Mr. Unger has provided trial presentation consultation for over 400 cases.

punger@affinityconsulting.com

A L**itigato**r's Guide to PDF Files
Acrobat & PowerPDF
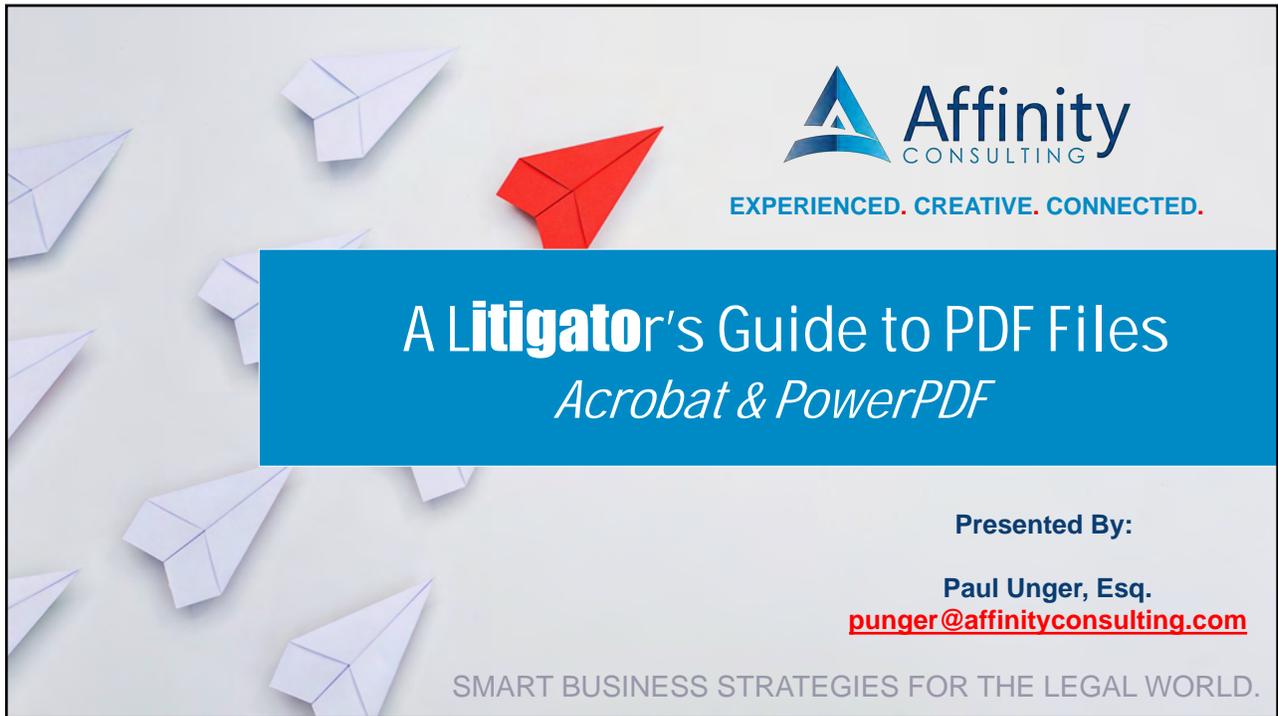
EXPERIENCED. CREATIVE. CONNECTED.

Presented By:

Paul Unger, Esq.
punger@affinityconsulting.com

SMART BUSINESS STRATEGIES FOR THE LEGAL WORLD.

Paul

3

4

Passion – Teaching Process & Technology to Lawyers

Types of PDFs

- **True PDFs**
  - **Created directly from Word or original source**
  - **Text is 100% accurate to original document**
  - **Highest quality PDF**
  - **Usually the smallest PDF**
- **Image only PDFs**
  - **Just an image of original**
  - **Cannot be searched for text**
  - **Default type of PDF from SCANNERS**
- **Searchable PDFs (Image + Text)**
  - **Layer of searchable text behind image (might not be 100% accurate)**
  - **Text searchable**
  - **Indispensable**

PDF/A

- **Type of PDF for long term storage**
- **Must be "self-contained"**
- **Some courts require**
- **Easy to make**
- **Limitations:**
  - **No Encryption**
  - **No audio or video**
  - **Embedded fonts**
  - **No external content references**

Why PDF programs are compatible

While Adobe Systems made the PDF specification available free of charge in 1993, PDF remained a proprietary format, controlled by Adobe, until it was officially released as an open standard on July 1, 2008, and published by the International Organization for Standardization as ISO 32000-1:2008. In 2008, Adobe published a Public Patent License to ISO 32000-1 granting royalty-free rights for all patents owned by Adobe that are necessary to make, use, sell and distribute PDF compliant implementations.

Compatibility Exception: Forms

▶ **Acroforms (universal, part of standard)**

▶ **XFA Forms (proprietary to Acrobat)**

   ▶ **XFA Forms were dropped from the PDF 2.0 Standard**

1. Quick Access Toolbar (QAT)
2. Ribbons
3. Navigation Panel
4. Document/Page Viewer
5. Page Navigation
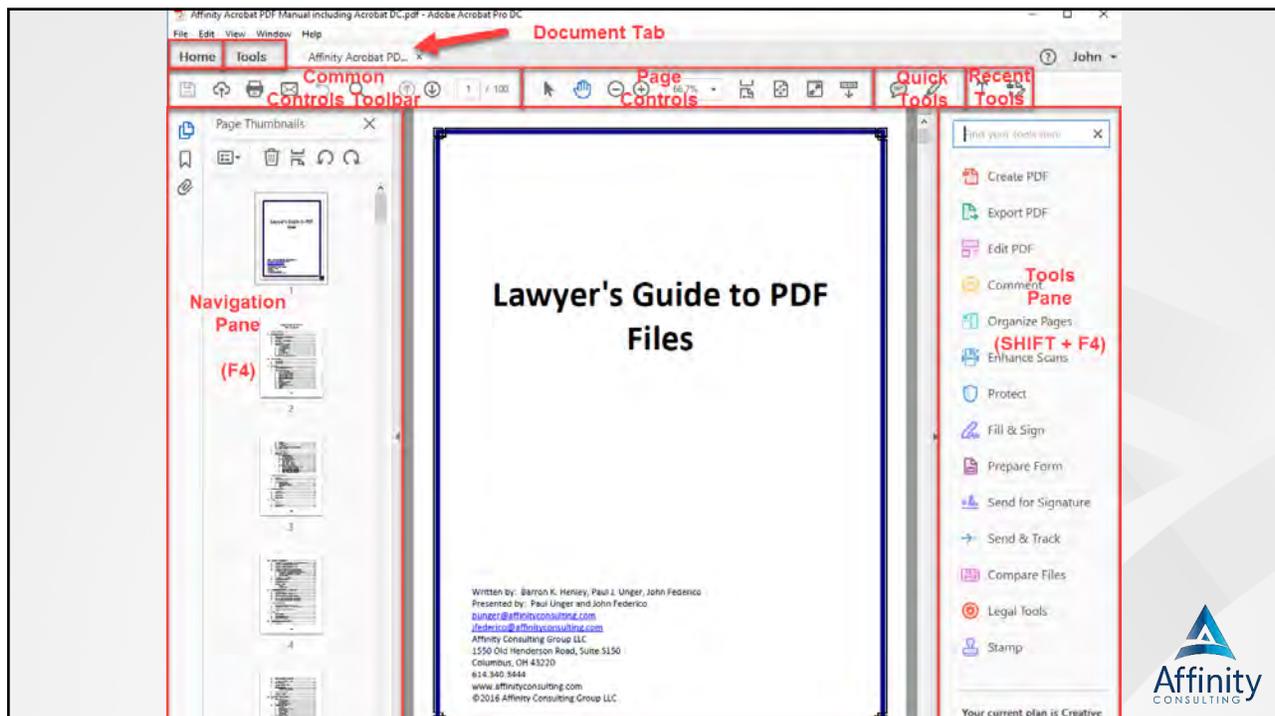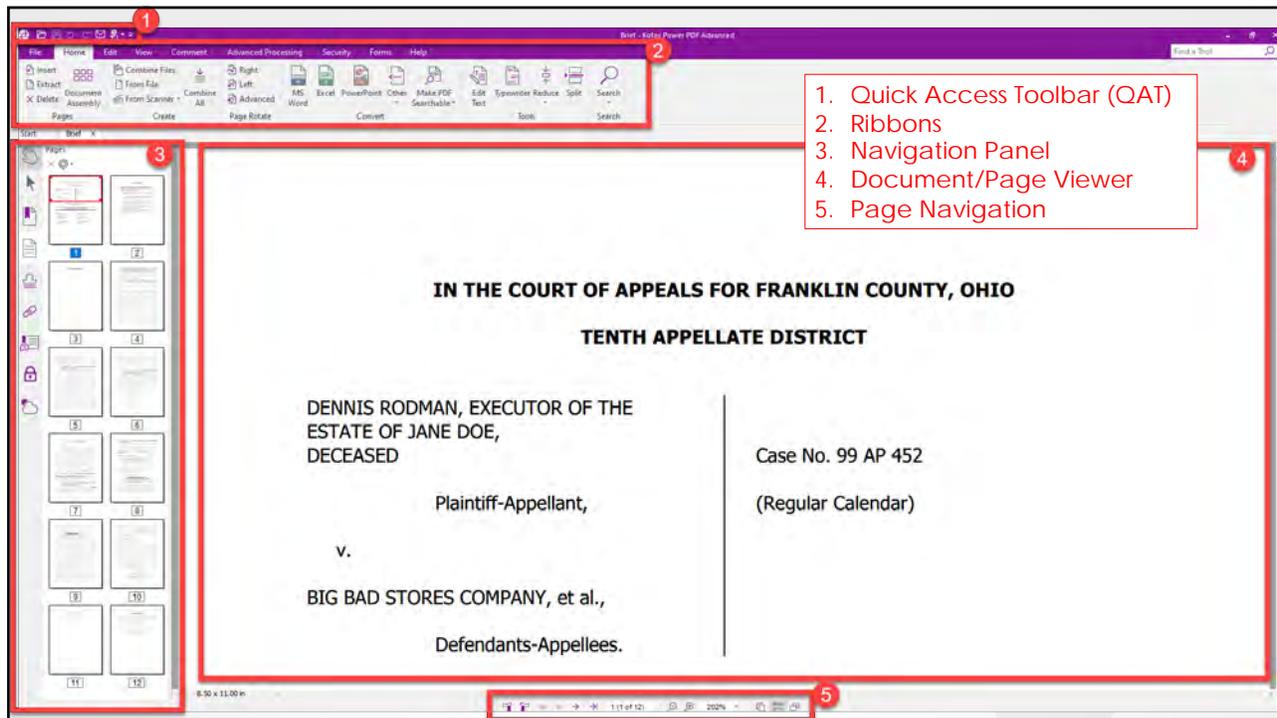
Customize Quick Tools - Acrobat
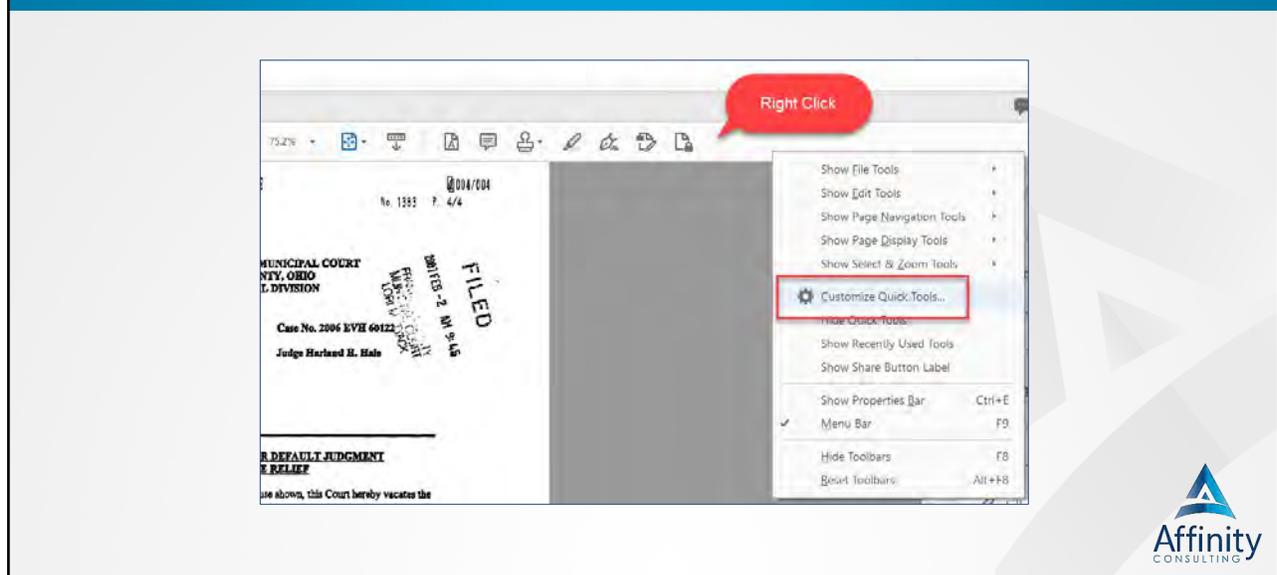
Zoom - Acrobat

▶ **+ and – buttons or the zoom control**
▶ **CTRL + mouse wheel**
▶ **Miscellaneous tools (Marquee Zoom)**
▶ **View -> Zoom**

Remember you can set your preferred zoom in the options (prior slide).
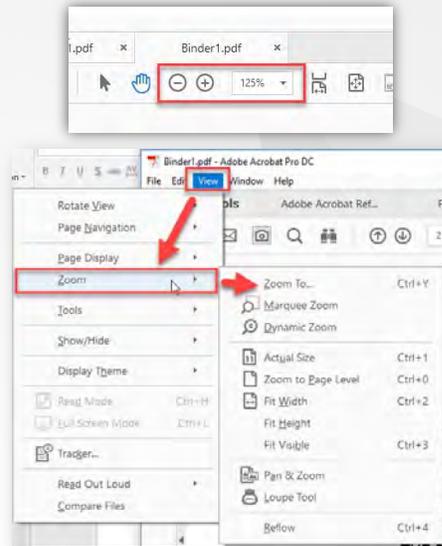
Zoom – Power PDF

▶ **+ and – buttons or the zoom control**
▶ **CTRL + mouse wheel**
▶ **Miscellaneous tools (Marquee Zoom)**
▶ **View -> Zoom**

Remember you can set your preferred zoom in the options (prior slide).
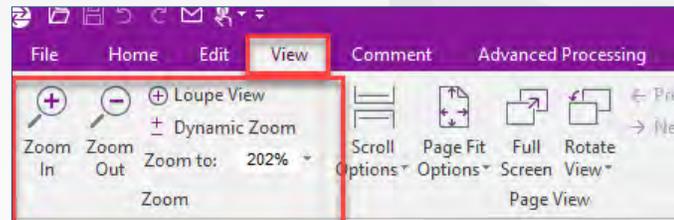
Read Mode

CTRL+H (Hide everything else in the window)

Read Mode hides all toolbars and side panes, and adds a "floating" navigation bar near the bottom of the screen.

Press CTRL + H or Escape or click the Read Mode button to leave Read Mode.
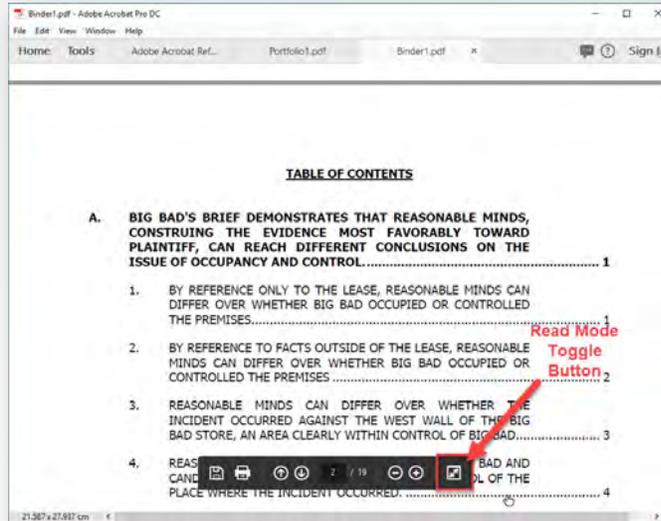
Full Screen View - Acrobat

CTRL+L (Look at the document, and nothing else)

Full Screen Mode takes over the entire screen and displays the document one page at a time.

Press CTRL+L or Escape to leave Full Screen Mode.

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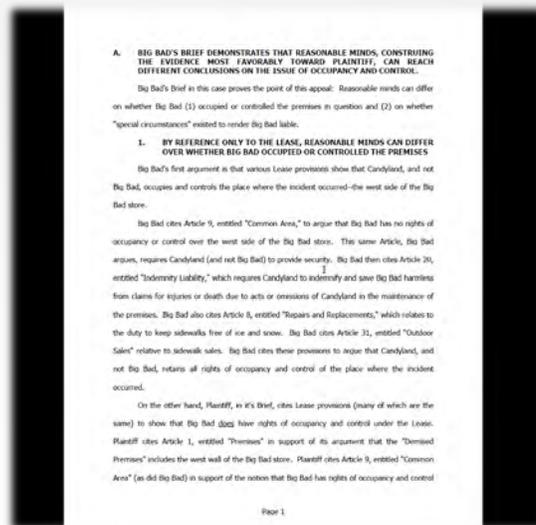
Full Screen View – Power PDF

**CTRL+L
(Look at the document, and nothing else)**

Full Screen Mode takes over the entire screen and displays the document one page at a time.

Press CTRL+L or Escape to leave Full Screen Mode.
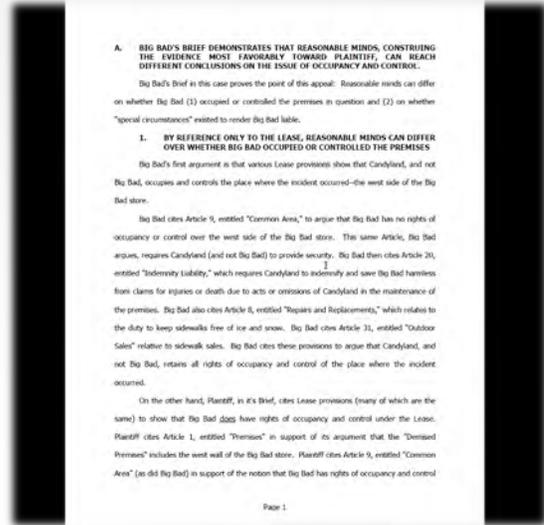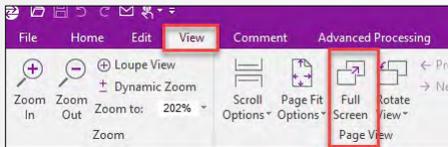
Go to a Particular Page

Go   There   Now

Ctrl + ⇧ Shift + N
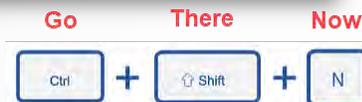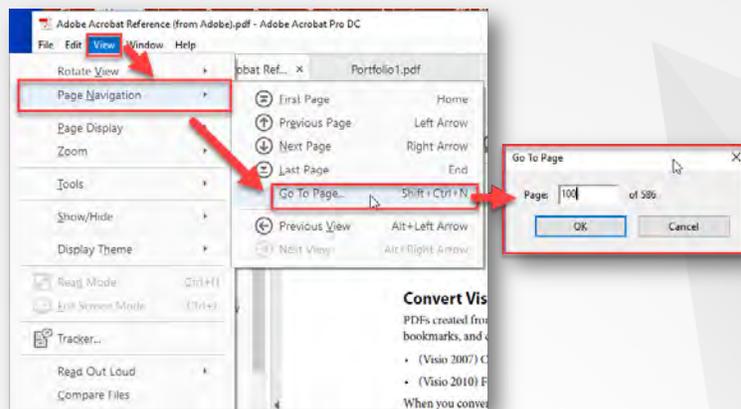
Page Thumbnails - Acrobat
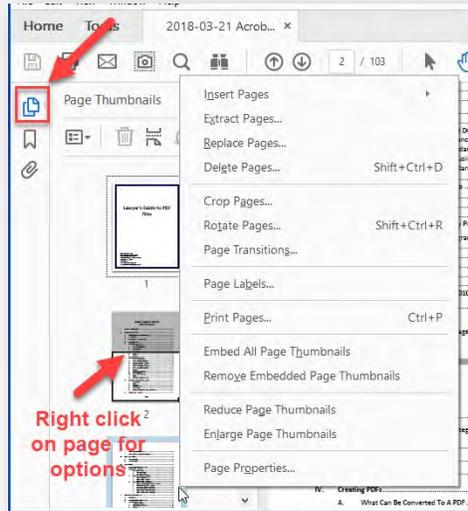
Page Thumbnails – Power PDF
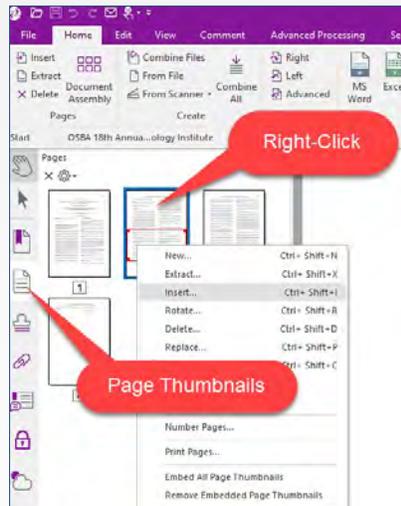
Organize Tool - Acrobat
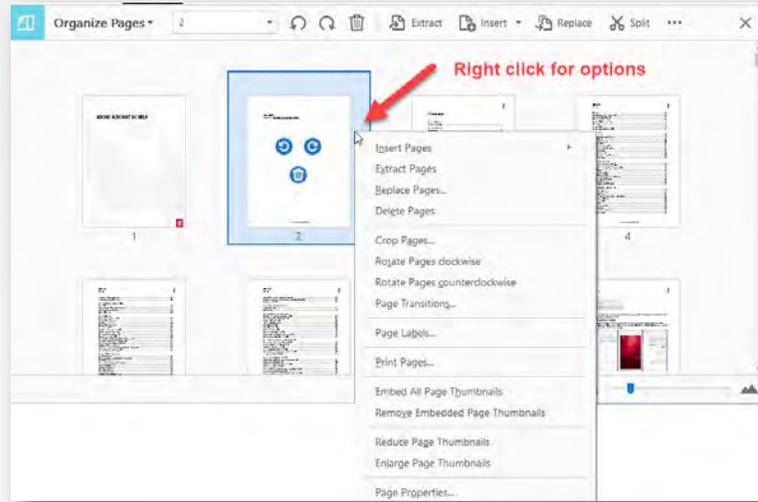
Organize Tool – Power PDF
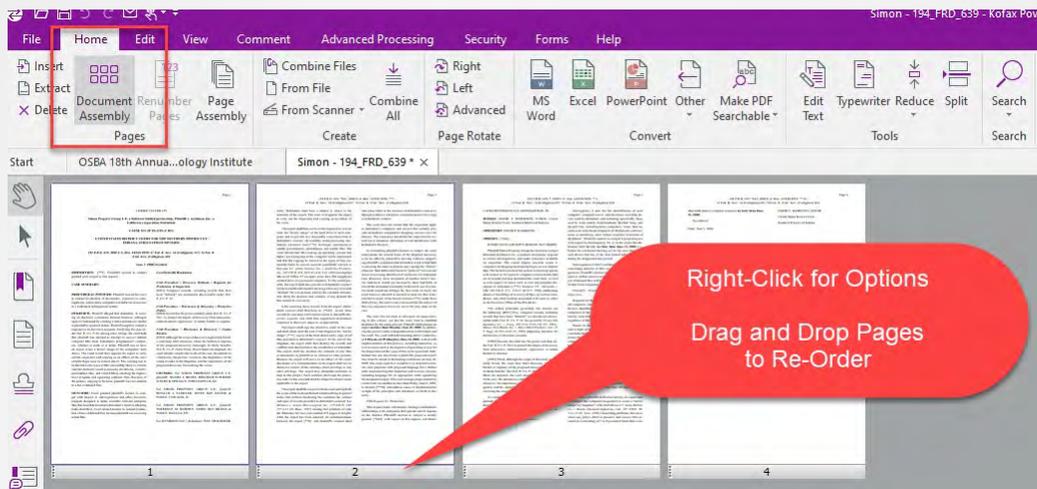
PDF Creation Methods

▶ **Print to PDF (do not use with Worldox)**

▶ **Acrobat Ribbon (best)**

▶ **Worldox Ribbon (very good)**

▶ **Drag & Drop**

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Creating PDFs from Word

Acrobat

Affinity
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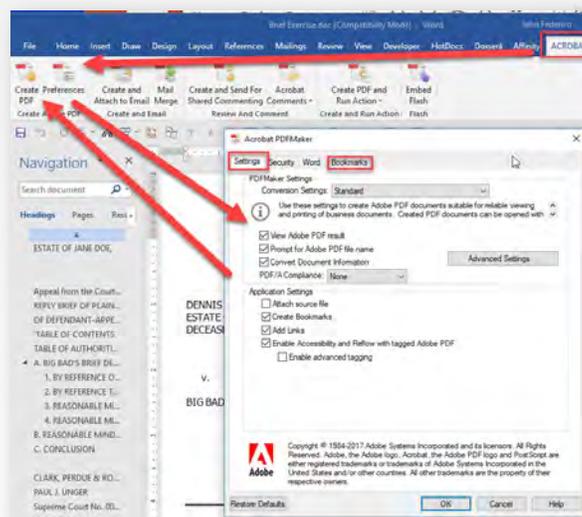
Creating PDFs from Word

Native Word Interface (without Acrobat)
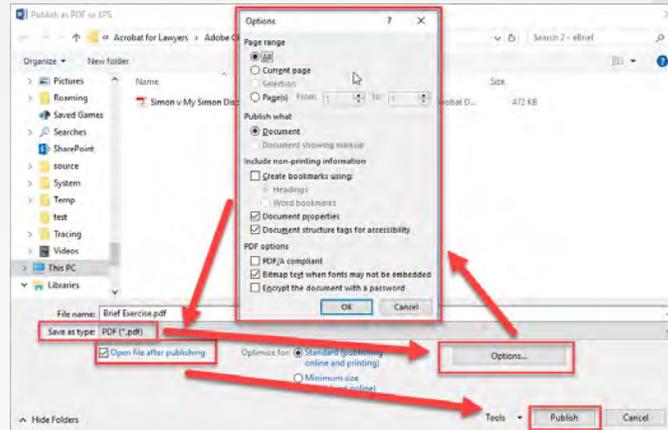
Create from Multiple - Acrobat

▶ **File->Create->Combine Files into a Single PDF**
▶ **Create Tool -> Multiple Files -> Combine**

13
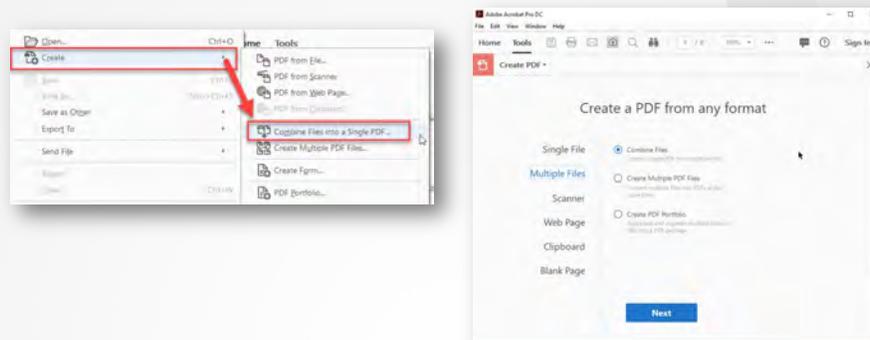
Create from Multiple Documents

▶ **Add bookmarks for TOC of documents**

▶ **Adobe will automatically convert documents to PDF**

▶ **If you use Organize or Page Thumbnails to combine documents, then you will have to manually insert the bookmarks.**

Create from Multiple – Power PDF

▶ **Home > Combine All**

9/14/21
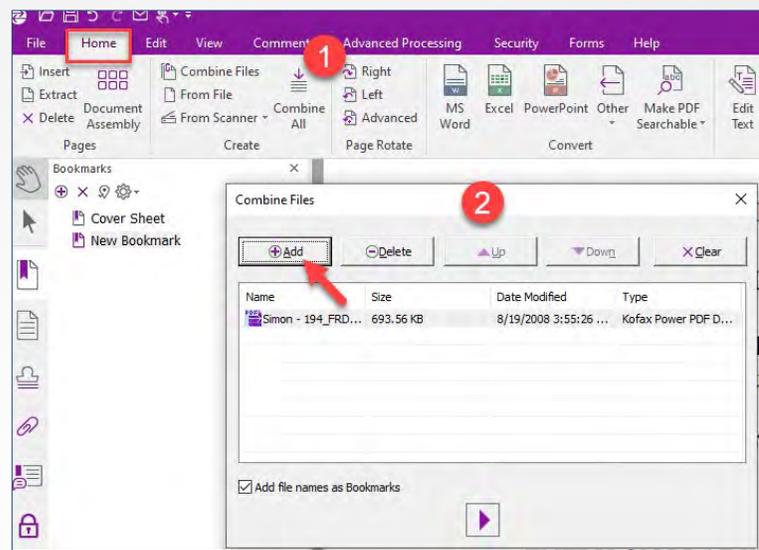
Creating PDFs from Word

Email form native Word Interface (without Acrobat)
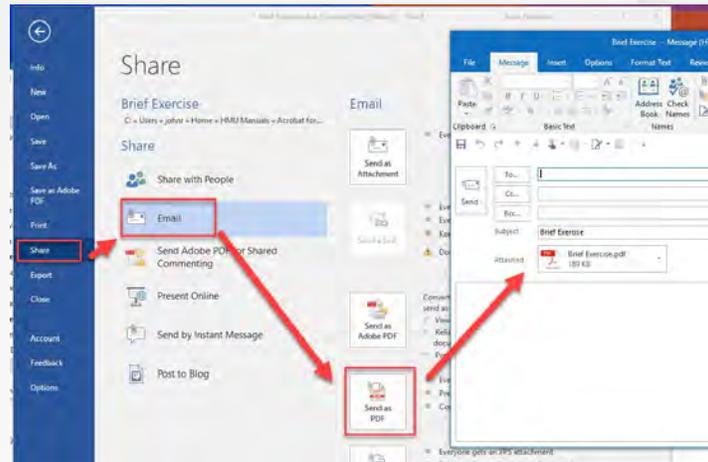
Creating PDFs from Outlook
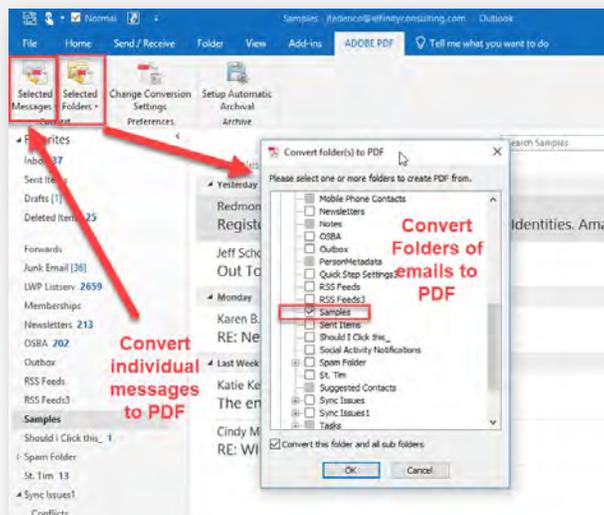
Create from Scanner

▶ **Scanner just takes a "picture" of the document**

▶ **Use the Enhance Scan tool to OCR, deskew and enhance the scan.**

Affinity
CONSULTING
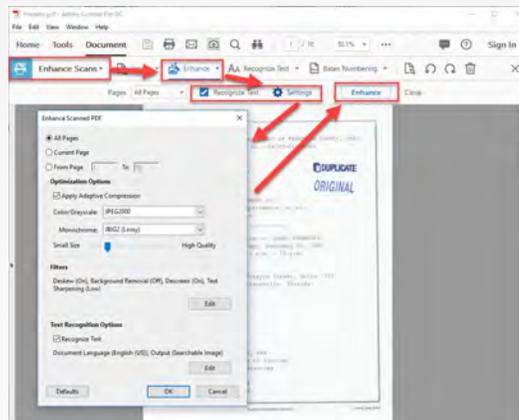
Manipulating PDFs

▶ **Thumbnails**

▶ **Organizer**

▶ **Combining**

▶ **Split Document**

▶ **Shrink Document**

▶ **Editing PDFs**

Affinity
CONSULTING
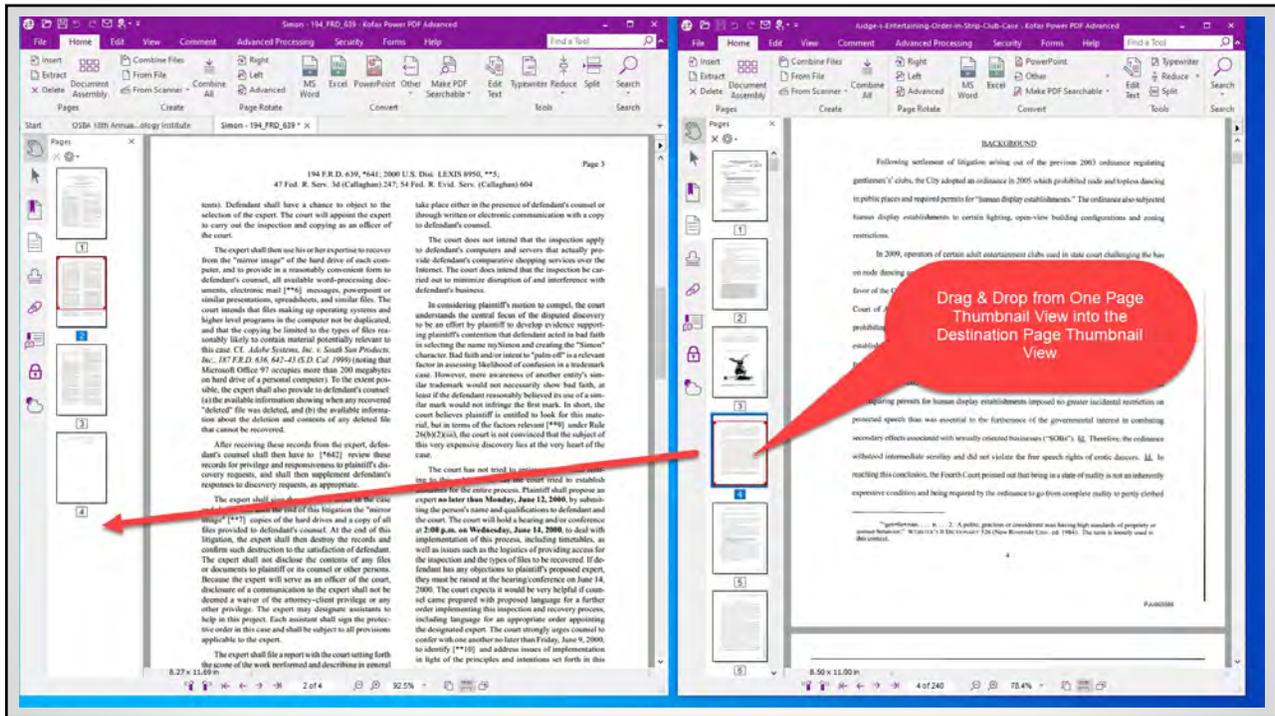
Split Document - Acrobat
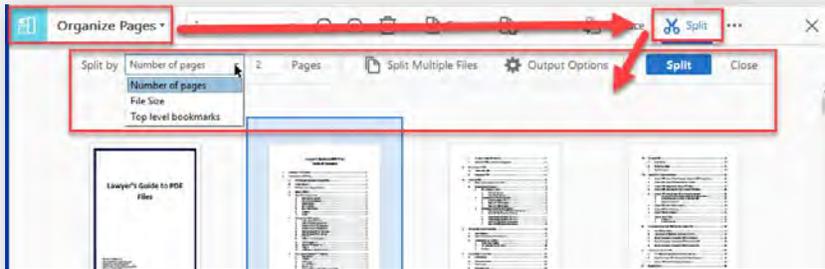
Split Document – Power PDF

Home Ribbon > Split

Shrink Document - Acrobat

Shrink Document – Power PDF
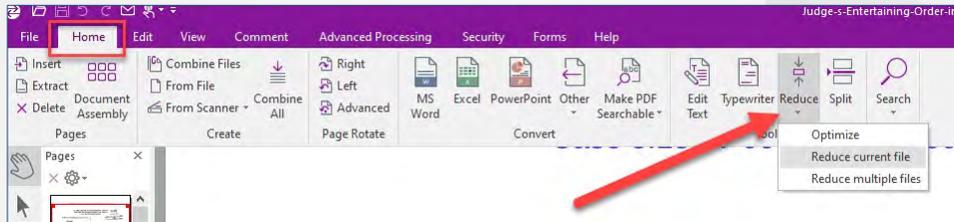
Convert Document - Acrobat
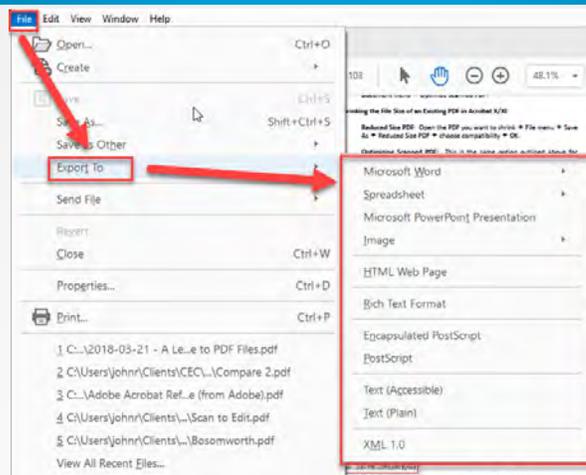
Convert Document – Power PDF
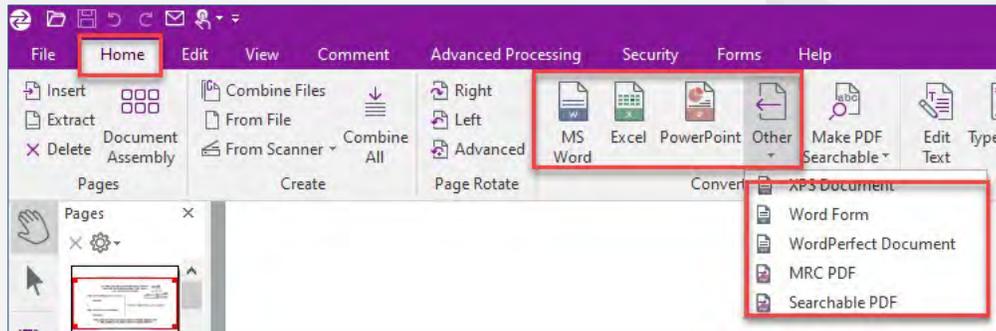
OCR – Acrobat

Enhance Scans ➪ Recognize Text
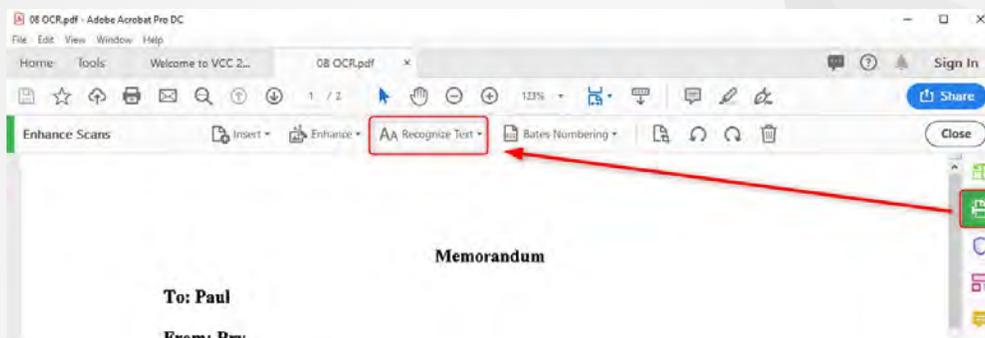
OCR – Power PDF
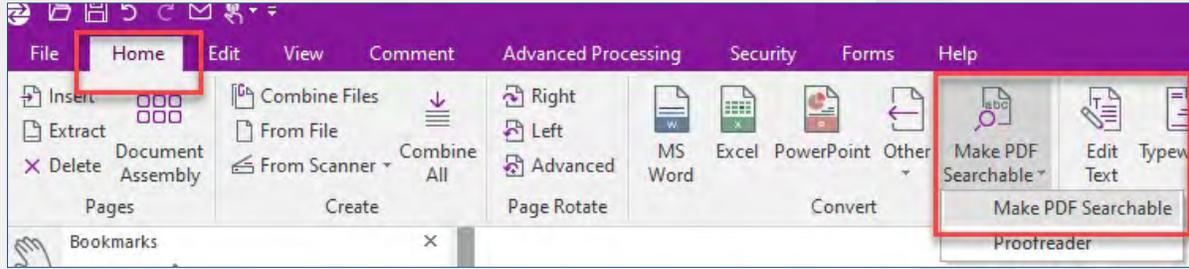
Bates Numbering

Bates Numbering Pt 1 - Acrobat
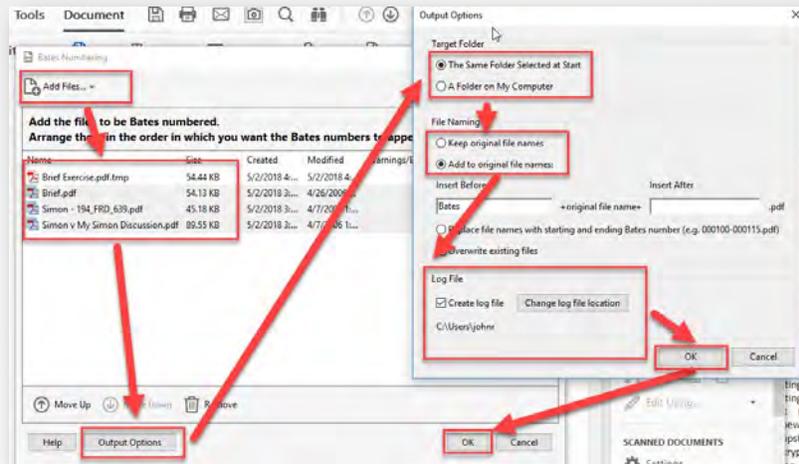
Bates Numbering Pt 2 - Acobat
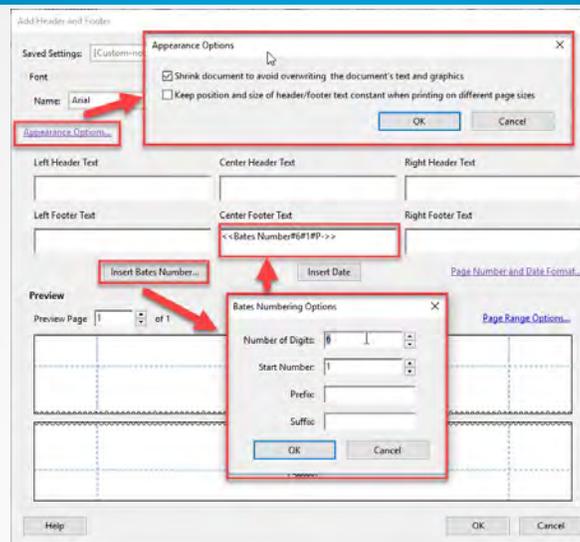
Bates Numbering – Power PDF
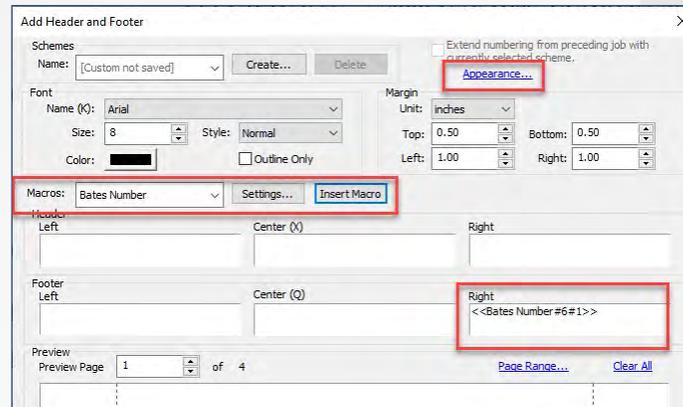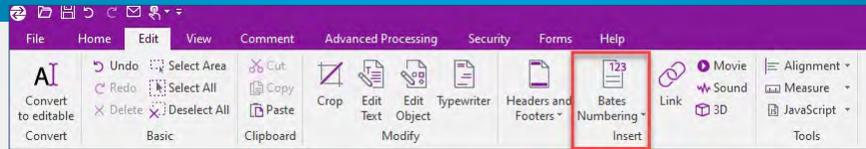
Redacting

▶ **You must use the redaction tool.**

▶ **DO NOT DRAW BLACK BOXES WITH THE COMMENT TOOLS!**

Redaction - Acrobat

1. **Save your document with a different name**
2. **Mark areas for Redaction**
3. **Apply Redactions**
4. **Save**
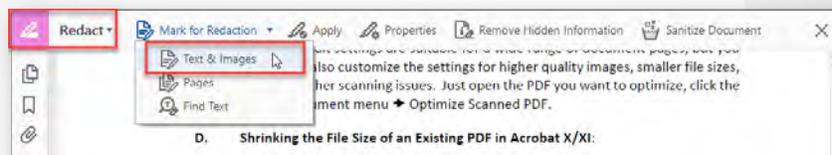
Redaction – Search and Redact
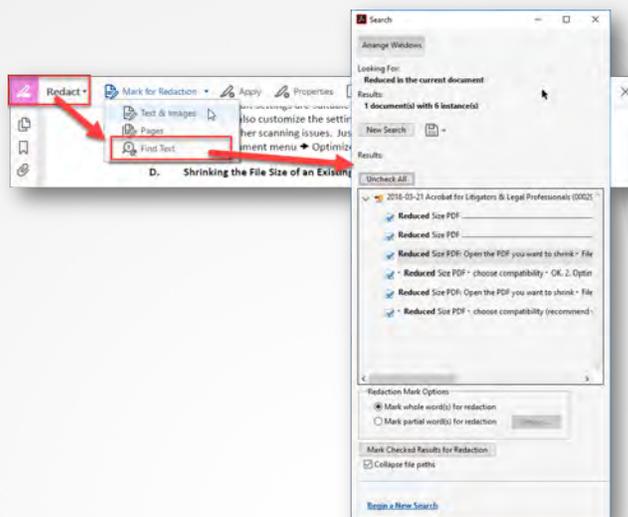
Redaction – Power PDF
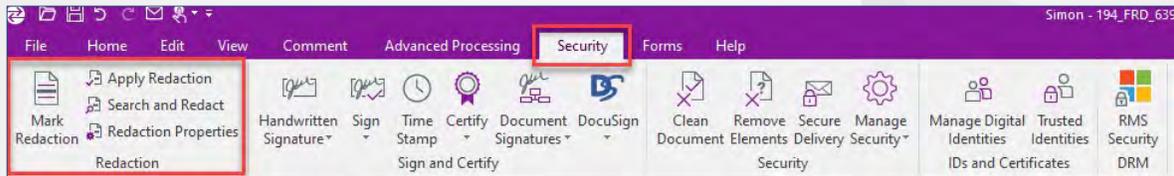
Typewriter Tool – Acrobat
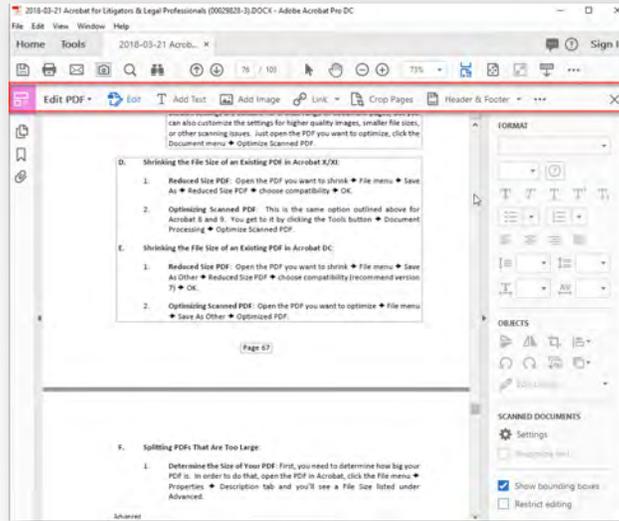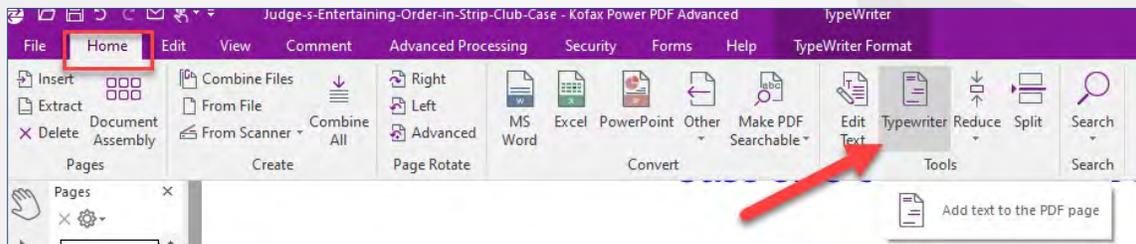
▶ **Edit Tool**

▶ **"Add Text" (Typewriter Tool) can add text to any PDF**

PDF Image Signature Stamp - Acrobat
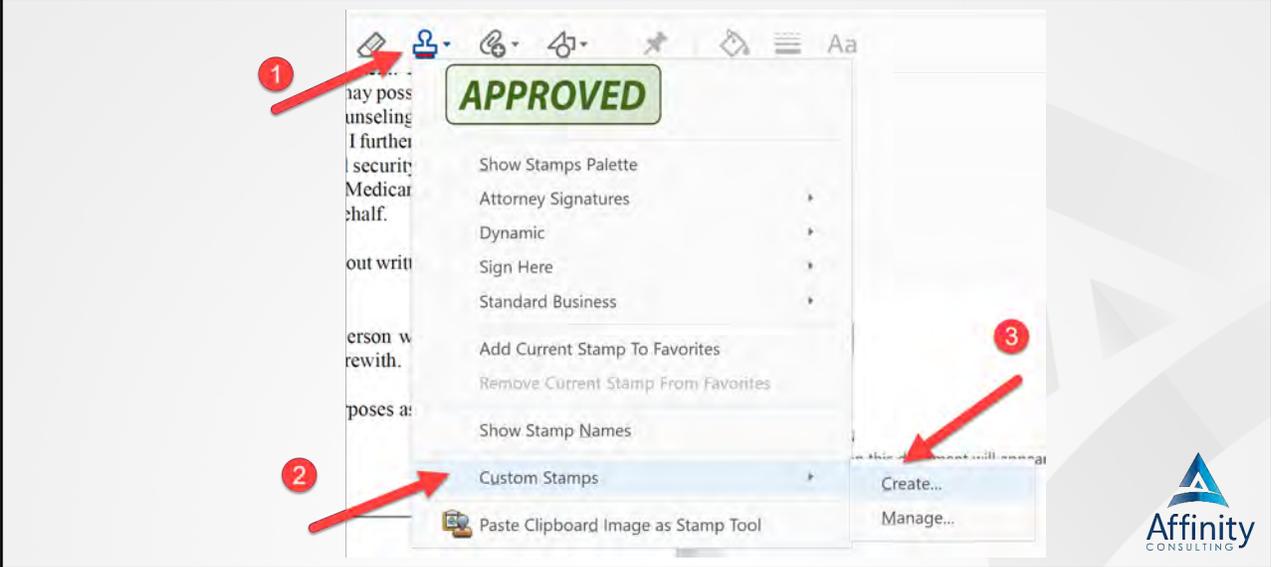
PDF Image Signature Stamp - Acrobat

PDF Image Signature Stamp - PowerPDF
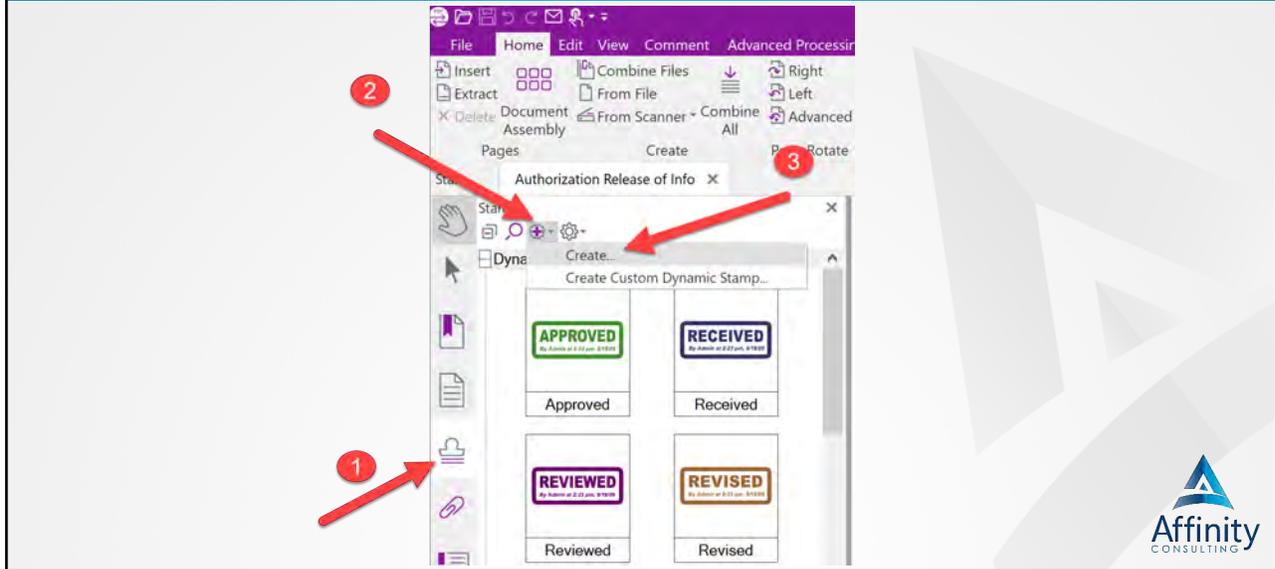
PDF Image Signature Stamp - PowerPDF

PDF Security - Acrobat

PDF Security – Power PDF

PDF Security – Power PDF

Flatting PDF - Acrobat

1. Activate Action Wizard
2. Select New Action
3. Click More Tools
4. Click Execute Javascript
5. Add to action
6. Select Specify settings
7. Type "this.flattenPages();" in the Javascript editor
8. Click ok, then save

To use, click the action on the Panel and click "Execute Javascript"
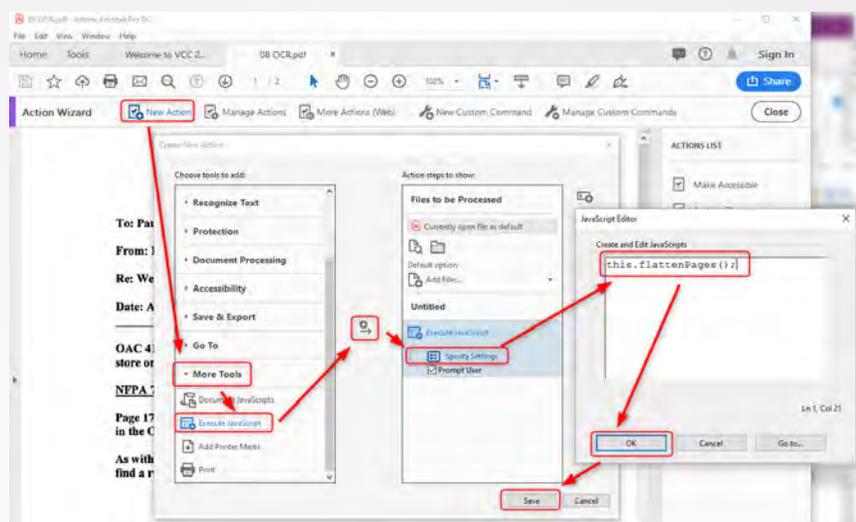
Flatting PDF – Power PDF

Bookmarks

1. Navigate to Desired Page

2. Turn on Bookmarks Button

3. Click New Bookmark
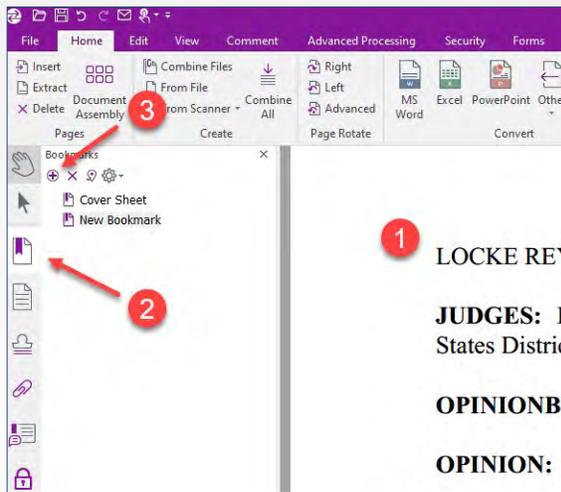
Hyperlinks in Acrobat

1. Edit PDF
2. Insert Link – Select Text
3. Set to Invisible Rectangle
4. Define the Type of Link and Location
5. Next to Finish
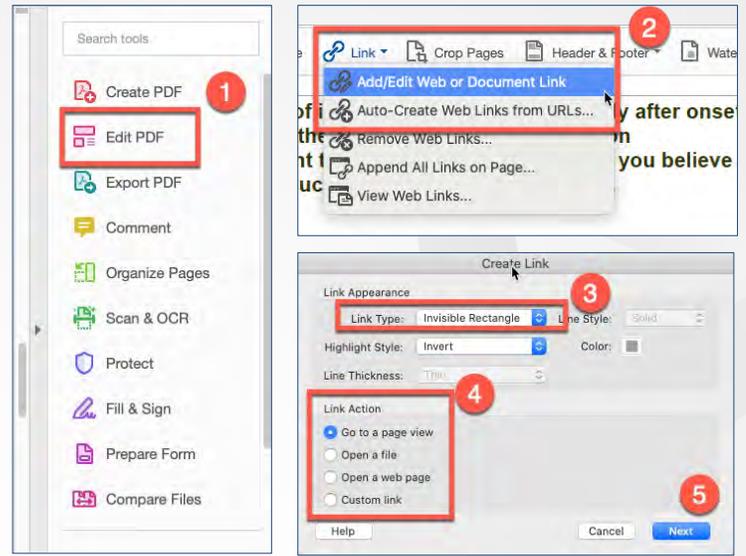
Comments

▶ **Comments (Comment Tool)**
▶ **Shared Review (Send for Comments Tool)**
  ▶ **Email**
  ▶ **Shared Server like SharePoint**
▶ **Enable Reader for Commenting**

Tips, Tricks, Apps & Websites for Litigators – ICLEF – Oct 2021

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Twitter:@pauljunger

Extras / Downloads

www.pauljunger.com

Random Tips

Zoom Tip

1. **Place yourself on Mute**
2. **Press & hold Spacebar to talk**

Screencast from iPad/Android using Zoom Pro (Web Meetings)

- ► **$14.99/month**
- ► **100 participants**
- ► **Works with Skype**
- ► **User Management**
- ► **1 GB of MP4 Cloud Recording**

Online Meeting Transcripts
(Zoom, GTM, WebEx, Teams)
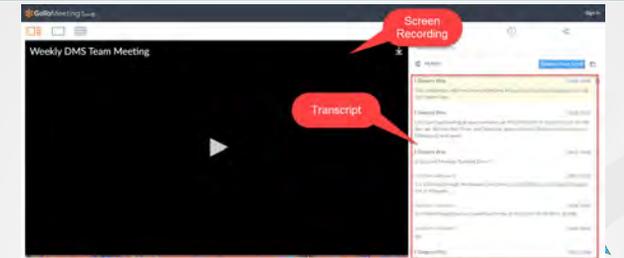
Quick Easy Green Screen
For Virtual Backgrounds – Minimize Halo
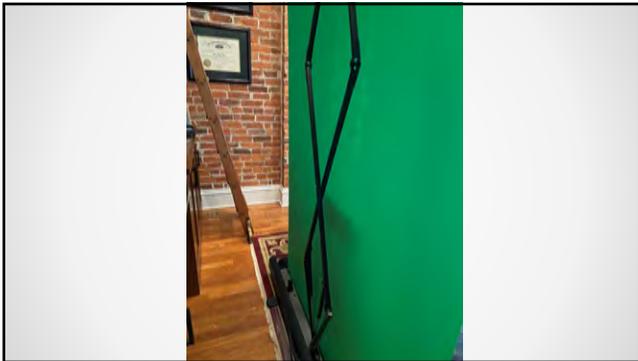
Text Expander
"Autotext" entries on an
iPhone/iPad ($3.39/month)

Apple Pencil + Notability, GoodNotes
Take Notes, Markup your CLE Materials, etc.
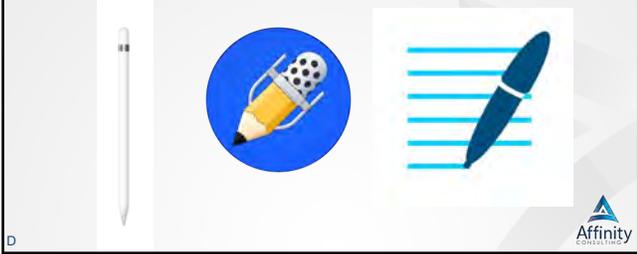
Apple Pencil + Notability or GoodNotes
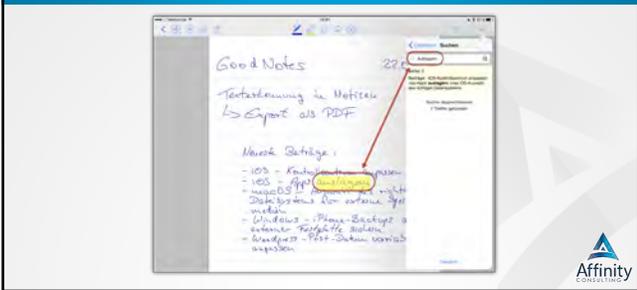
Screenpresso ($29.99) (or Snagit)
Image and Video Screen Capture

Best Dual Monitors For A Great Deal

- 2 of these - Sceptre 27"
  Curved 75Hz LED Monitor
  C275B-144RN - $173 each

- … on one of these –
  HUANUO dual monitor stand
  - $30 (CDN $50)

Affinity

Compare Single, Large Curved Monitors

- Samsung Curved 49" - $999.99
- Dell UltraSharp 49" Curved - $1,499

Affinity

Automatic Bluebook Citations in Word

LegalCite - $1.49/month – free trial - http://bit.ly/2TDgqCg

Affinity

Useless but Interesting AI – Quick Draw

https://casetext.com/ - Cara A.I.

Upload your pleading and it will find relevant case law for you

Compose by CaseText

Useful AI – NetDocs Predictive Filing

- Easy Filing
- Everyone Knows it is Filed
- Case File is COMPLETE
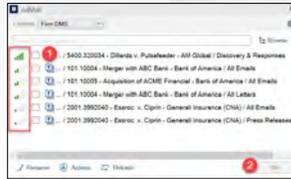
NetDocs Tip – Managing Email Attachments

- Rename
- Re-Order
- PDF on the Fly
- Send and Save – One Step

Portable Full HD Second Monitor

ASUS MB169B+ (USB 3) or MB 169C+ (USB-C) 15.6-Inch Screen - $180

800g | 8.5mm

Portable Full HD Second Monitor (option 2)

Mobile Pixels Duex Pro Portable Monitor for Laptops
12.5" Full HD - $249

Use Tablet as Second Monitor

- **iPad**: Duet App ($16) – Win or Mac
- **Android**: AirDisplay ($5) or iDisplay ($5) – Win or Mac

Let People Know You're On The Phone

https://pro.luxafor.com/

Luxafor Flag   uxafor Bluetooth
from $31.00 $79.00

iMazing

► **Browse and Export iOS Messages, Photos, Voicemails to your PC ($49)**

Security Tips

Two-Factor Authentication

► **Just as Important as a Strong Password … maybe even more**
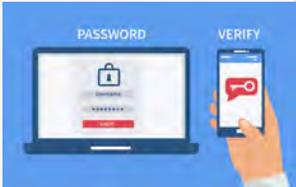
Encrypt your PC - BitLocker
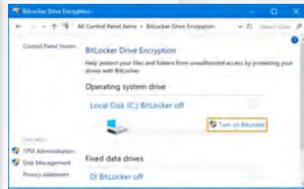
Encrypt your Mac – FileVault

VPNs for Public WiFi
Pricing based on 12 mo.

Nord $6.99/mo.

Tunnel Bear $4.99/mo.

Hide My $6.99/mo.

USB Data Blocker

PortaPow USB Data Blocker - $7 - 2 pack $12.50

Encrypt Your File Sharing Service

www.Sookasa.com

Encrypted Cloud Storage

Tresorit – YOU hold the Encryption Key!

Encrypted Cloud Storage

Tresorit – YOU hold the Encryption Key!

Try the safest place in the cloud without risk

Premium	Solo
For personal users	For freelancers and professionals
$10.42	$24

Centralize your Document Management!

netdocuments

Chandler Shepherd
chandler.shepherd@netdocuments.com

Worldox

Rebecca Sattin
rsattin@Worldox.com

iManage

Andy Huber
andy.huber@imanage.com

Laptop/iPad/iPhone/Android Devices
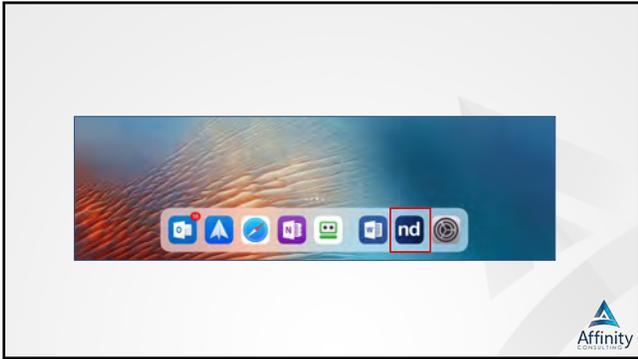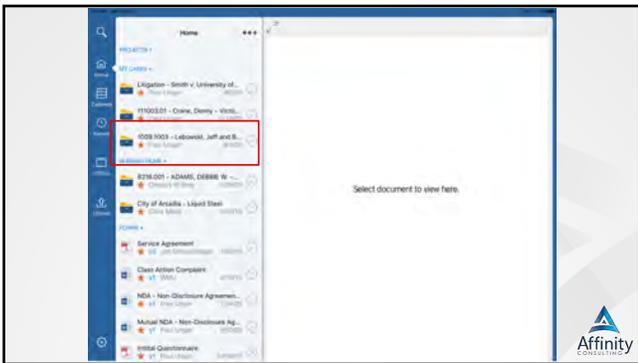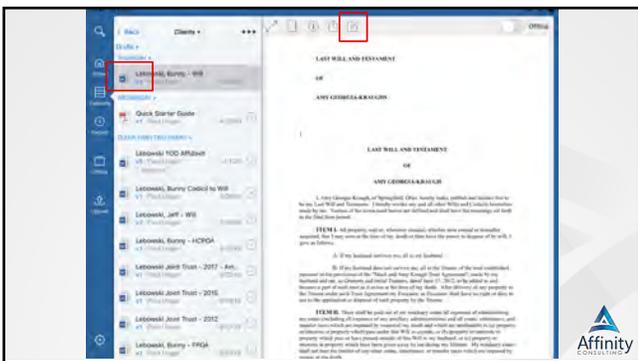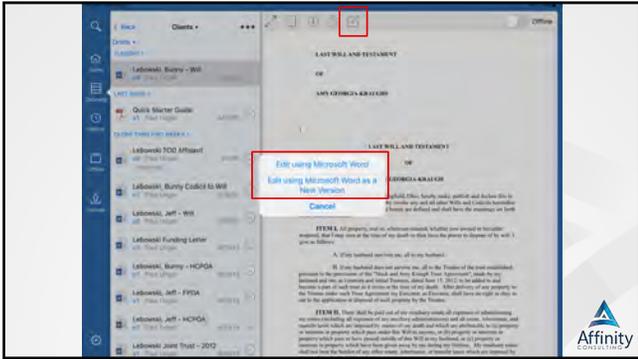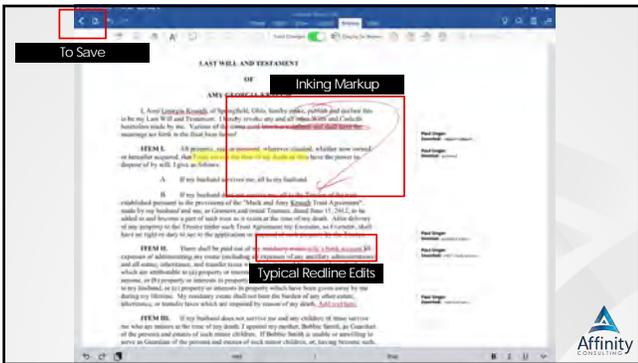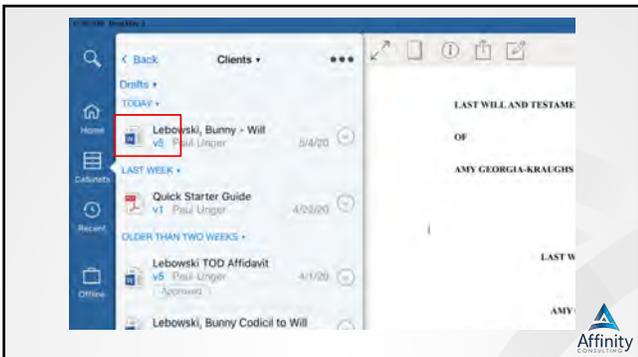
Windows 10 Tips

Windows 10

Windows 10 – Multi-Clipboard
Windows Key + V

Copy Items as you ordinarily do (Ctrl key + C), but use Windows key + V to access all copied items!

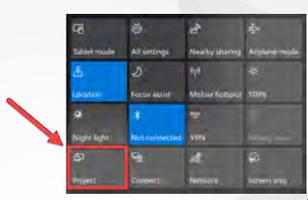Works in MS Word as well! … anywhere & any program.

Present Wirelessly for Free in Windows 10
(no more messy wires!)

► **Notifications Icon (lower right corner) > Project > Connect to Wireless Display > Select your Smart TV**
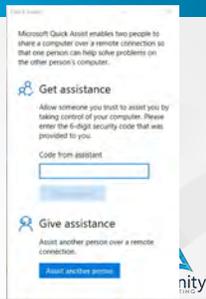
P

16

Windows 10 Quick Assist

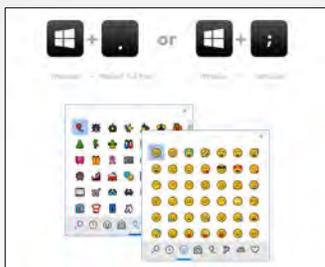**Start button** ⊞ **> Windows Accessories > Quick Assist**

Provide or receive assistance

Microsoft Quick Assist enables two people to share a computer over a remote connection so that one person can help solve problems on the other person's computer.

Get assistance
Allow someone you trust to assist you by taking control of your computer. Please enter the 6-digit security code that was provided to you.

Code from assistant

Give assistance
Assist another person over a remote connection.

Assist another person

Batch File Renamer in Windows 10

▶ **FREE**
▶ **Mass Renaming**
▶ **Microsoft Store**

▶ **Replace String**
▶ **Insert String**
▶ **Remote String**
▶ **Convert Case**

File Renamer
Affinor • Productivity
♡ Wish list
★★★ ☆ ☆ (7)
File Renamer makes it easy to rename large number of files in in a few clicks.
Have a large picture library and wished files were called something more.

Affinity
CONSULTING

Emojis in all Windows Applications

⊞ + ☺ or ⊞ + .

Affinity
CONSULTING

17

Websites

Don't Fall for Email / Phishing Scams or False Info

It's None of Facebook's Business!
Keep Facebook out of your Browsing Activity

"Simple Checklist" App (iOS)
(great for morning routines, processes, etc.!)

"Do Things, Again and Again"

By Michael Galloy
@simplechecklistapp

Clears/Resets
All Checkmarks so you
Can Use Checklist Again

Where is that Image Online?
TinEye - Reverse Image Search

Reverse Image Search
Search by image and find where that image appears online

www.remove.bg

Remove the background of an image for Free

19

www.remove.bg

Remove the background of any image for $1.99

Scan To PDF From Your Phone

- Free & Also on Android
- OCR
- Can save directly to NetDocuments

Scan To PDF From Your Phone

- Free & Also on Android:
  - MS Office Lens
  - Adobe Scan

Best Desktop Scanner (NEW!)

Fujitsu ScanSnap iX1500 - $420
- **30/60 ppm**
- **Includes Kofax PowerPDF**
- **4.3" Touch Screen**
- **Scan business cards**
- **Scan to Word files**
- **Auto-rotates**
- **Auto-senses paper size**
- **Auto-senses color or B&W**
- **Scans front & back simultaneously**

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Antique ScanSnap

PhotoMyne
$19.99/year, or $49 for 10 Years

- **iOS, Android**
- **Web**
- **Online Access**
- **Share Albums for Free**

P

Affinity

Symphony OCR

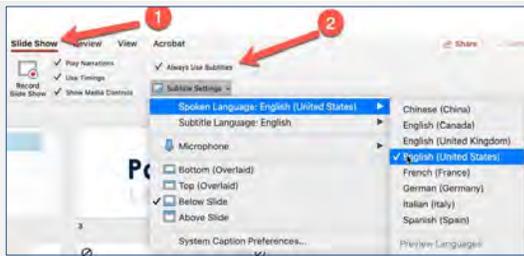**Symphony OCR®**

Take the frustration out of finding documents

Affinity

MS Office & PDF Tips

Auto Scrolling Voice to Text (live captions) in PowerPoint Presentation

Microsoft ToDo

FindTime by Microsoft

Editing Video in PowerPoint

1. **Right-Click on Video > Trim**
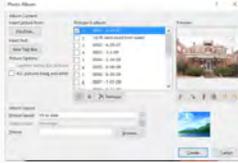2. **Adjust Start and Stop Time**

Create Slides from Dozens of Pics
(never insert one at a time again!)

1. **Insert > Photo Album**
2. **Select ALL desired Pics**
3. **Re-order, Adjust, Create all at Once**

Invest in PDF Training!

Print, Sign, Scan, Save & Email
4 Min, 15 Sec

Invest in Training, Period!

PDF, Fill/Sign, Save, Email
55 Seconds

Thank You!!!

Paul J. Unger
punger@affinityconsulting.com

www.pauljunger.com