

# Electronic Discovery: Separating The Wheat From the Chaff



**By Eric Sinrod,**

Discovery burdens in civil litigation are growing exponentially. There are a variety of driving factors, including the sheer magnitude of electronically stored information (ESI) and relatively recent amendments to the Federal Rules of Civil Procedure that force assessment and handling of ESI early in litigation.

In the past, lawyers used to review documents for relevance, privilege and other determinations in response to production demands. However, dedicating armies of attorneys to analyze oceans of electronic data simply is not cost-effective for clients, especially in this economy.

So what are companies on the receiving end of broad production demands to do in seeking to meet their ediscovery obligations?

In this climate, it is not surprising that a number of providers have come out of the woodwork that offer to manage, search and cull ESI in response to discovery demands. These solutions themselves can be expensive and technically burdensome. Moreover, it can be difficult for companies to evaluate effectively the provider that is appropriate for a given case.

Clearwell Systems provides ediscovery software for early case assessment that is worthy of consideration for cases that are email-intensive in the discovery arena. Clearwell provides the ability to project potential attorney review costs, an early understanding of case facts and key players, and visual insight into chains of email discussions to allow for the pinpointing of important or otherwise missing custodians.

Importantly, Clearwell allows for easy removal of non-responsive information from email collections right up front based on simple inputted criteria, which can cut down on attorney review time in a massive way, to the substantial savings of the company. Indeed, Clearwell reports that review time can be reduced by up to 90%.

Defensible ediscovery truly requires a three-pronged approach. The client company must be involved and must be cooperative. The company must work with a law firm experienced and

skilled in ediscovery matters to guide the process. And a technical solution should be put in place to facilitate, expedite and streamline the work of the attorneys. When it comes to email discovery, Clearwell provides a solution worthy of consideration.

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