

Court Orders For Hosted Review Solutions

Funny thing about discovery: Sometimes, the Judge needs to see the electronically stored information too.

However, most judges will not want a lawyer to swing by in a truck to drop off 80 bankers boxes at the courthouse.

It is also unlikely many Courts can afford purchasing litigation support software. In these situations a web hosted review platform can be the solution.

For those not familiar with them, a hosted litigation support solution is a database hosted online by a third party for a law firm or multiple firms. This could be a firm with a very large case or multi-party litigation. Each party can have its own secure log in passwords and not have access to their opponents' work product.

Magistrate Judge Facciola issued a discovery order that required the parties to consider using a hosted review platform. The order set out as a "primary goal" for the parties to select a review platform with "hyper-linked to fields in a database that will permit the instantaneous retrieval from within the database of the information offered by plaintiffs in support of any factual proposition." *El-Amin v. George Wash. Univ.*, 2008 U.S. Dist. LEXIS 85009 (D.D.C. Oct. 22, 2008).

The Court set out three secondary goals:

- A. The review software had to be easily used by counsel and by the Court.
- B. The Court needed access to the review software.
- C. The review software needed to be self-contained. *El-Amin v. George Wash. Univ.*, 2.

The Court even went so far as draft a six column database as an example for the parties.

Claim No.	Dr.	Date	Plaintiff's evidence in support	Defendant's objection and any countering evidence	Court's ruling
123	Smith	10/02/01	Document or testimony	Counter argument why evidence is insufficient; tender of countering evidence with explanation	Claim sustained or denied, with reason

Judges are judges because they are educated problem solvers. It is not hard to imagine more discovery orders such as *El-Amin v. George Wash. Univ.* Courts will face situations requiring all parties to have access to ESI and rulings to be made on objections, privileges or admissibility. A hosted solution can distribute the costs among the parties and allow a court an opportunity to review the discovery for expedited rulings. This beats a moving truck full of boxes.