



An interview with Jim Moore and Vanessa Vidunas of Merrill Brink International : e-discovery management, foreign language expertise, and more

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This interview is part of our new series “Data! Data! Data!” — Cures for a General Counsel’s ESI Nightmares”. For our introduction to the series [click here](#).

MERRILL BRINK
INTERNATIONAL

Merrill Corporation has a wide reach. It is one of the largest world-wide vendors for outsourced services in business communication and information management. Merrill’s services include document and data management, litigation support, language translation services, financial transaction and compliance services, virtual deal rooms, branded communication programs, fulfillment, imaging and printing.

Last year Merrill launched its Document Review Service which is geared to helping its customers more efficiently manage document review — and control rising discovery costs. It was a natural progression for Merrill given their extensive experience and expertise in electronically stored Information (ESI) management, document translation, court reporting, etc.

Back in the 1980s, as beginning lawyers on Wall Street, we spent many days and nights in the Merrill proofing rooms at 225 Varick Street in NYC editing 10-Ks, 8-Ks, S-1s, etc. as they came off the Merrill presses. We revisited that Varick Street location — home to Merrill’s New York headquarters — to meet with Jim Moore, Executive Vice President of Merrill Brink International, and Vanessa Vidunas, Director of Staffing Operations for Merrill Brink International.

TPL: We’re cringing. We used to spend hours in this room editing printer proofs.

JM: [laughing] But we did feed you pretty well and you got your proofs back on time.

TPL: TPL: You did. And it was like a cruise ship. Food and drink 24/7. Full breakfasts, lunches and dinners. You guys still do that printing stuff?

JM: Absolutely. There have been many regulatory and technology changes since then but the core service remains. Want to come back?

TPL: I think we'll take a pass on that, thanks. Ok, Merrill's Document Review Service. Give us some basics.

JM: The launch was a natural for us. We already offer translation services so offering that in tandem with multi-lingual document review provides our customers with a seamless integration with the e-discovery process, which I'd like to say is a rather unique offering in the industry. We use teams of experienced attorneys (recruited by Vanessa and team) who are specially trained and many are Lextranet® certified (that's our proprietary software) although our attorneys are versed on a number of software platforms. Once we had our infrastructure in place, we got requests for English review as well and we now offer both.

VV: And I want to add that we can handle cases of any scope or size, including cross-jurisdictional and multi-national litigation as well as regulatory matters. Additionally, our review space is state-of-the art, secure, comfortable and well-decorated.

TPL: Ah, yes. Multi-lingual and cross-border cases. That is a huge market these days. Your folks are in the U.S. but also a major presence in Europe, yes?

VV: Yes, we have a presence in Europe and are seeing a growing demand for contract attorneys in that market. The downsizing of the past 18 months has contributed to this need. In 2009, we had the opportunity to work with both law firms and corporations who are based in Europe.

TPL: Ok, we can almost predict the next phrase. Don't tell me. You offer "end-to-end litigation support services."

JM: [laughing] Ok, all service providers say that, I'm sure. But we do. And it's a natural for us. We are already providing case-related information and management services to the Am Law 200 and Fortune 500 corporations. How do you reduce what seems to be ever-rising litigation costs, especially the discovery process? Simple. You leverage with a partner who has a wide spectrum of litigation services that can meet the needs of a case, no matter how large, complex or varied. Merrill provides some of the most comprehensive case management services around. If you check our website www.merrillcorp.com/legal you can see we offer initial discovery; audio and video deposition search and synching; document extraction, review and processing; multiple language translation; trial preparation; final production and trial presentation. And all of it is handled by superbly trained project managers who guide the process from inception to completion.

TPL: So the majority of your clients are corporations, or law firms?

JM: It is a healthy mixture of both. We are seeing a trend where the General Counsel's office tends to be more directly involved in choosing providers for ancillary services like document

review. In those cases we work closely with outside counsel but our client is ultimately the corporation.

TPL: Vanessa, getting back to the contract attorneys who have to staff projects: how do you recruit?

VV: We have an existing database of qualified contract attorneys that we can draw from. In addition, candidates are sourced through job boards, legal listserves, recommendations, word of mouth as well as my personal knowledge of many of the candidates in the industry. After a rigorous screening process, candidates are considered for opportunities that arise based upon qualifications.

TPL: But you are also battling a contract attorney market (and NYC seems the worse) that has a surfeit of poor working conditions, low pay, mistreatment, lack of respect. What is your read on all this, the whole overall condition of the contract attorney market, and Merrill's answer?

VV: I read the blogs out there and I know from contract attorneys who I interview what law firms and agencies are raining down on the industry. But we are far above that. We are running a business and are certainly concerned with margins and managing costs during these challenging economic times; however, we believe that paying a fair market rate and treating our employees with respect garners loyalty and results in a better work product. Contract attorneys often have a choice as to where they will work and we want the best ones to choose us because of the culture and environment we offer.

TPL: Some of your postings on The Posse List have sought BigLaw associates or BigLaw experience. Is this client driven?

VV: It is. We can recommend to a client who we think they need to staff a project but many clients — mindful of these difficult financial times and knowing about the massive layoffs and the paradigm shift in the legal industry — often request we search out ex-BigLaw associates. But clients have been asking not only for former BigLaw attorneys, but for candidates who have specific skill sets. Many times the projects we get are more complex than straight doc reviews. We also know the depth of The Posse List membership and we can usually staff what we need between our own database and your list.

TPL: And pay rates?

VV: Our pay rates are competitive with what the market will bear. But lately we have worked with law firms — clients have become more and more savvy in the costs associated with document review — that tell us “we have budgeted “X” amount of dollars for the review part. You need to work within the following pay rates ...” Many clients are looking for alternative pricing models. I would not be surprised if the model moves somewhat away from hourly and more towards a per document pay model as clients search for higher rates of productivity from the reviewers.

TPL: We saw a rough patch earlier this year with a huge fall off in work because of the financial meltdown. How was 2009 for you and what do you see for 2010?

JM: We got off to a quick start in 2009 despite the economy and we are bullish about the prospects for 2010.

TPL: So you think we are back to form?

JM: Most indicators point to a better year ahead.

TPL: Your expertise seems to be foreign language projects given Merrill's depth in that area. As we have reported, FCPA and IP litigation cases dominate the project/contract attorney market. We estimate they comprise 80% of our postings. Is that the highest percentage of your work?

VV: Although we began our review business by focusing on bilingual projects, we are equally adept at English only projects. In 2009, we staffed many projects that had no foreign language components; however, in recent months, the hot matters in the market do seem to be in the areas of FCPA and IP litigation cases. In order to be successful, we watch trends and try to stay ahead of them to the extent possible.

TPL: There has been a creeping demand for greater use of contract attorneys by corporations, a trend we reported on earlier this year. Have you also been staffing in-house legal departments?

JM: Yes we have. Merrill has a solid base of clients in corporate legal departments and our document review service is a natural complement to the other services they buy from us.

TPL: Lextranet, your document management software. You have had the product since 2007?

JM: Correct. We acquired Lextranet in 2007 because we were becoming a leading provider of Web-based litigation support and case management systems. Lextranet was a Web-based platform with transcript and case management tools. It fitted perfectly with our litigation support products/solutions. And then we ramped it up.

TPL: By doing what?

JM: Well, lots of stuff. For instance we augmented its native search capabilities with conceptual search, in this case by incorporating third-party software from Cognition Technology. Conceptual search — looking for documents not by matching keywords, but rather by identifying documents containing words related to a concept — was the way the market was moving. [To read full details on Merrill Lextranet [click here](#)].

TPL: Frankly, after awhile, it becomes difficult to distinguish document review products. Why are you different?

JM: E-discovery management takes more than great technology – experienced people can streamline each project and help you manage through inevitable challenges. Merrill offers an extraordinary breadth of expert support – from the 1st level review to preparing for trial, we will deliver creative and fiscal value.

TPL: ”The Big Enchilada” is Federal government contract work. There is a flood of work from the FDIC, SEC, Treasury, etc. — standard financial document review and processing contracts which we reported numerous times in our previous posts. There must be 10 contracts a week posted to the FBO. Are you going for this work?

JM: Merrill I believe has worked with all or most of the agencies you mentioned as well as several others. If value is perceived on quality, performance and consultative services, and price is not the only factor, then we are a competitor in the government sector.

TPL: One thing that has been in the press has been Merrill Lextranet Transcript Repository. What is that?

JM: Well, we are now in Version 2 of that product. We have some updates, including search and synching for video depositions, a feature unique in the litigation support marketplace. The program provides a secure, web-based environment that allows multiple users to log in with a secure internet connection from any location with 24-hour access. This connection allows users to search, organize, and manage deposition calendars, transcripts, and other legal documents. Users will also have access to a keyword-searchable video deposition library.

TPL: There is a lot of competition out there amongst agencies. How does Merrill separate itself from the pack?

JM: First of all, we are much more than just a “body shop” for contract attorneys. Our service exists as part of a comprehensive e-discovery solution offered under one roof by Merrill Corporation. More and more clients are looking for an integrated solution and we are uniquely qualified to offer that.

Secondly, our roots in the translation business allow us to offer a bi-lingual review service that is unmatched in the industry. We offer language identification services in the processing stage that allow for a more structured and cost-effective review. We also offer professional translation of pertinent documents coming out of the review process.

We also have a global footprint that allows us to provide reviewers and space in key locations throughout the US and around the world.

TPL: You have also partnered with the University of Alabama School of Law to conduct a course on ESI, yes?

JM: We have. As you know, getting ESI knowledge into the law schools is a major movement today. We have a partnership with the University of Alabama School of Law in conducting a course to prepare law students for the growing number of cases that involve

electronically stored information. The course is entitled “The Paperless Lawsuit: Preparing the Law Student for Trial Practice in the Age of E-Discovery” and it will begin this month. The course will provide students with the emerging case law on electronic discovery and its application to technology, along with the use of pragmatic practice tools. It is one of the first courses in the nation to provide hands-on training in reviewing actual electronic documents using the most current document review tools.

TPL: What Merrill personnel are involved?

JM: The School of Law hired Allison O. Skinner, Esq. of Sirote & Permutt, P.C. to serve as its first Adjunct Professor to teach this course. Skinner collaborated with Melissa Rogozinski, senior account executive, and Chris Browne, senior sales engineer, both of Merrill Corporation, to construct a portion of the course to provide students with practical hands-on experience handling electronically stored information.

TPL: Jim, Vanessa — thanks for the time.

JM: Our pleasure. I think The Posse List is an excellent source for jobs/projects and for learning about the e-discovery market. Keep up the good work.

Postscript: *LegalTech is one of the premier events in the industry. It will be February 1, 2 and 3 in NYC (for details [click here](#)) and you can find Merrill Brink in the Exhibit Hall in Booths 2000 to 2004 o Level II.*

Gregory P. Bufithis is the founder and chairman of The Posse List and its sister sites The Electronic Discovery Reading Room (<http://www.ediscoveryreadingroom.com>) and The Posse Ranch (www.theposseranch.com). He is also founder and chairman of Project Counsel (www.projectcounsel.com).