Bring your case to **life**

The acceleration of technology and explosion of data has rewritten the rules for the entire litigation process and is therefore changing how evidence should be presented.

Federal Court Practice Note CM6 recommends using technology within litigation when matters exceed 200 documents to ensure proceedings are facilitated more efficiently, quickly and inexpensively. As such, courts, as well as those involved in litigation, alternative dispute resolution, investigations and commissions of inquiry are increasingly recognising eTrials (electronic trials) as an important aspect of the litigation process.

Keeping costs down during review and presentation

A costs survey conducted by RAND in 2012 suggests that 70 per cent of total eDiscovery costs relate to the review process. Most of that time is spent identifying the relevant material by sifting through mostly non-relevant material.

Using the appropriate software tools, high precision and low recall rates will reduce the amount of manual legal review required and ultimately reduce the overall cost of litigation.

eDiscovery will continue to evolve and change at a fast pace as data volumes continue to grow. A recent report from Computer Sciences Corp, suggests that there will be a 4300 per cent annual increase in data generation by 2020.

However, before embracing predictive technologies, it's important to establish a clear strategy and project-specific parameters within your practice.

Once your data is in electronic format, presenting evidence electronically in court is the obvious next step.

Common practice in the industry is for all parties to share the cost of an eTrial. Significant savings can be gained by reviewing, storing and presenting documents electronically, including using an eCourt book instead of printing thousands of hardcopy documents. Expert witnesses can also be examined from remote locations through live streaming, saving on the cost associated with travel.

Bring your case to life

Evidence management software enables all parties to search and showcase documents and evidence easily in court. This is particularly powerful when evidence includes graphics, diagrams, plans, videos, x-rays and audio, and can significantly increase the court's understanding of the evidence presented, leading to a more influential presentation.

In many technology-enabled courtrooms, images can be projected on screen by an LCD projector, but the capabilities of such devices are limited without the use of advanced evidence management software or a skilled operator. When combined, the use of such technology and a trained evidence presenter accelerates proceedings and enables robust functionality.

Having witnesses and Counsel mark exhibits with notations, or zoom in on specific areas of evidence to highlight facts while on the stand, can be a powerful tool. For example, markings can show where a crucial event occurred on a particular piece of evidence, including live video. Once the notations are made on the monitor, additional markings may be added to identify the witness responsible for the notations, all of which may be preserved electronically or by printing a copy of the exhibit.

Focus on the case, not the technology

What works best for one client and setting (i.e. courtroom, arbitration, inquiry) does not necessarily work well for another. The type of evidence involved in a case should influence what options you present to your client.

Outsourcing to a reputable eTrial provider can deliver further significant benefits. Lawyers do not need to worry about technology in the courtroom; the chosen provider can do that for them.

For an eTrial to run smoothly, look for a provider that can offer a wide range of in-court solutions, including hardware, software and overall project management. They should provide assistance with everything from reviewing evidence, compiling eBriefs and eCourt books, to navigating the presentation of evidence on your behalf.

About Elizabeth Miller, Head of eCourts at Law In Order

Elizabeth has over 25 years' experience in the delivery of eCourt solutions in Australia, Europe and North America. She has worked on large Royal Commissions since 2003 and leads the eCourts team on remote builds for all evidence management and presentation, including the Trade Union Royal Commision into Governance and Corruption, and Grantham Floods Commission of Inquiry.

For further information on discovery and review contact Law In Order on 1300 004 667 or sales@lawinorder.com.au

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