



DEPARTMENT OF JUSTICE

Commonwealth Legal's Third Annual Litigation Support Conference

Promoting Your Services to the Firm and Clients – Marketing 101

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Background - National Perspective

- Our Original Problem
- Our Search for a Solution
- Our Solution
- Our Litigation Support Centre Model
- Current Status
- What Did We Learn?



British Columbia Regional Office Litigation Support Centre

- Early Challenges - Other Tools
- Early Challenges - Client Education
- Early Challenges - Mainstream Audience
- Early Challenges - Unrealistic Enthusiasm
- Early Challenges - Mega Cases Only
- Early Challenges - Management Framework
- Early Success Stories
- Current & Future Challenges



Background - National Perspective



Our Original Problem

- Throughout 1990s growth in volume, complexity, cost and risk of civil litigation resulting in an increase in the amount of information to be managed.
- Due to a lack of standard electronic Litigation Support tool litigation teams were reinventing the wheel.
- Outside contactors hired to assist with use of tools which was a huge benefit to the specific litigation teams but knowledge was not retained for re-use
- The tools in use at the Department were rarely used and those who could use them became very valuable.
- We are a national department - geography a problem for information and people - CDs shipped back and for the without knowing that someone at the receiving end would know what to do with it.



Searching for Solution

- A **working group** of litigation support users, senior members of the department and client representatives was formed in **Fall 2000**.
 - There was **extensive consultation** with Department of Justice litigation teams, law firms in the private sector and visit to Department of Justice in the United States.
 - Based on feedback and information gathered a Request for Proposals was prepared with well over **100 criteria** and went to the market in **January 2002**.
 - Seven companies bid, including Canadian market leaders and Ringtail.
 - Following a strenuous review process the contract was awarded to Ringtail in **July 2002** as the litigation support technology best meeting the Department of Justice's needs.
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Solution

- A **six month pilot** was held in two offices with selected files at different stages in the litigation cycle.
- Ringtail's ease of use and lower business support requirements meant the pilot could support more files than expected; everyone was pleasantly surprised how quickly users became self sufficient.
- A very important part of the pilot included standardizing aspects of the tool (look and feel) & preparing best practice documents.
- The survey completed at end of pilot demonstrated almost unanimous praise - litigation teams were using and benefiting from Ringtail.
- **July 2003** after proving itself, Ringtail became the Departments litigation support tool for all new litigation files requiring/requesting use of an electronic evidence management tool.



Litigation Support Centre

Centres of expertise for litigation support & litigation support tools in nine regional offices staffed with **business and technical experts**.

- Develop, maintain and assist with standards related to litigation support;
- recommend best course of action based on case particulars;
- provide full “just-in-time training” and support for software and process;
- coordinate vendor services, including preparing vendor contracts, monitoring the work of the vendor, ensuring DOJ standards are met;
- load and convert digital collections into Ringtail;
- prepare production and disclosure sets of material; and
- assist with Trial technology and courtroom setup.



Current Status - Nationally

- Approximately 150 live files, with more to come on line.
- Smallest File: two hundred documents.
- Largest File: over a million documents with approximately 3.5 million pages.
- Nearly 800 licensed users.
- Clients and experts working in Ringtail alongside Department of Justice teams; some have never met face to face.
- Ringtail is being used in commissions of inquiry, numerous class actions and knowledge bases.



What Did We Learn?

- Having a standardized tool has given us control our own document management.
- We are not forced to use tools chosen by clients or the other parties.
- User acceptance is almost universal –user statistics show that lawyers are using Ringtail in ways they did not use other tools in the past.
- Ringtail is an excellent fit with Department of Justice.
- Proper support and standards are as important as the tool.



Experience of the British Columbia Regional Office Litigation Support Centre





BCRO Litigation Support Centre

- In **January 2004** the litigation support centre in the British Columbia Regional Office opened for business.
 - There are approximately **250 lawyers and 40 paralegals** in the Vancouver office.
 - Myself, and Christopher Jones, Technical Lead.
 - Liliana Romero joined our team in May 2006 for a one year learning and developmental opportunity and we hope to hire an additional technical person in the near future.
 - We support over **42 litigation teams** comprising **130 licensed users** are managing approximately **300,000** documents of case materials with Ringtail.
 - Over **200 hours of formal training** to date with countless hours of one-on-one follow up and support to teams and individuals.
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Early Challenges - Other Tools

- Conversion of existing cases working in other tools should be based on a case by case analysis of existing files
- Some files will "sunset" in existing tool.
- Be prepared to continue contracts with vendors/consultants for support of that tool.



Early Challenges - Client Education

- Clients may have developed electronic work-flow processes with litigation teams in other tools.
- New processes to meet the new tool have to build on the hard work done to date, not abandon it.
- Clients that are less familiar with the benefits of working with electronic litigation support tools require an explanation of the costs and benefits.
- New expenses such as vendor charges for scanning & coding need to be explained and contrasted with traditional paper / photocopying charges.



Early Challenges - Mainstream Audience

- Creating realistic expectations is extremely important when teams are new to electronic tools and are not "tech-savvy".
- Many of these teams have not done their own research into the use of electronic litigation support tools and are not aware of the nature of the decisions and the new/different steps required.
- Where possible, develop processes that mirror traditional ways of organizing documents.
- Patience is required to explain the relevance of the instructions required from teams and to reiterate there is a lot of "front end" work and the pay-off is down the road.



Early Challenges - Mega Cases Only

- Encourage individuals and teams to use electronic tools for small files, particularly users without previous experience.
- Small files typically have shorter litigation cycles which will give perspective on the early decisions required, allow experimentation with the features of the software, and result in best practices that match the teams' or individual's working style.
- Encourage counsel and paralegals to manage their cases with an electronic tool while it is still a choice.
- Managing evidence from electronic sources such as email, instant messaging, database, desktop computers, etc., introduces a whole new set of issues not raised in this presentation.



Early Challenges - Unrealistic Enthusiasm

- Introductory training for electronic litigation support tools is well received (user-friendly tools designed with the litigator in mind) and predictably there are users who want all of their files converted to the electronic tool immediately.
- These tools cannot replace the subjective and analytic work of team members.
- More rigorous case management is required – “garbage in, garbage out”.
- Encourage new converts to wait several months before bringing more files on board to ensure they realistic about the tools and the time involved on one or two files to avoid becoming frustrated on all.



Early Challenges - Management Framework

- Transition from implementation of a program to managing expectations as the need and desire to work with these tools exceeds capacity.
- While the early focus promoting litigation support services is on recruiting new files, establishing business processes and service level standards cannot be overlooked.
- Time must be dedicated to monitoring the evolution of the technology to maximize the benefits of electronic tools, and to identify/introduce new complementary electronic tools.
- Monitoring developments in Canadian and US jurisprudence cannot be overlooked to ensure recommendations made to teams are within the rules and/or guidelines of the courts.



Early Challenges - Management Framework

- Dedicated resources are essential particularly on the technical side.
- Rigorous selection process for identifying those who will provide litigation support to in your organization.
- Litigation Support is a new complement to the existing corporate services – the buzz word at New York Legal Tech in January 2006 was “Practice Management”.
- Responsibility for oversight of litigation support services should reflect the unique nature of this service.
- Litigation Support has an impact on and require the support of the other corporate services.
- Fostering a sense of working together is very valuable to the a relatively unique merging of technical and business expertise.



Early Success Stories

Define your own success - keep statistics and promote the small stories during the early days of implementation:

- Track the number of files using litigation support tools.
- Track the number of users in the organization and the hours of training provided.
- Track the number of documents reviewed and produced electronically.
- 60,000 documents have been reviewed electronically since the introduction of Ringtail in the British Columbia Regional Office. Previously document review was completed in paper/hard copy.
- Trees saved and the cost savings in printing/paper alone is a notable success.
- As most documents exist in electronic format only the need to store approximately 100 boxes was eliminated. (60,000 documents x 4 pages per document x 2,500 pages per box)



Early Success Stories

Request testimonials of the "ah-ha" moments when users experience the benefits of working with these tools on their own terms:

- a traditional pen and paper lawyer is thrilled to find out he can review his clients' documents on a computer screen without the hassle of binders on his desk and the possibility of losing documents in his office;
- a team is struggling to organize the documents received from various client contacts on a file and are pleased to see how the tool can help track which documents are received from who and when and that the original organization of the documents is preserved electronically;
- a team member who has required more one on one training than any other user, sends an email to her team offering to show them how to work with a specific function; and
- a lawyer determined to review documents in paper only, is amazed to discover in training that the process designed for electronic document review mirrors exactly what she does in the paper world and she acknowledges, without prompting, that completing the review electronically will significantly streamline the process.



Current Highlights

- British Columbia Supreme Court “Electronic Evidence” Practice Direction.
- Courts are asking counsel to consider the use of technology – makes promotion of litigation support services much easier.
- Electronic document exchange with other parties is proceeding smoothly.
- Consultant / vendor community exists to assist with the gaps in organizational expertise.
- Excellent professional development opportunity.



Current & Future Challenges

- Technology impacts all aspects of litigation today - need dedicated/sophisticated technical expertise and support.
- eDiscovery.
- Finding the time to become an "expert" with respect to the emerging jurisprudence and electronic litigation support best practices.
- Technology in the courtroom.



Conclusion

Emphasis on process to select a tool:

- Define the problem - understand your organization and the needs of your teams.
- Look to alternatives.
- Consider how you want to work with it.
- Evidence (document) management is a good place to start.



Conclusion

Ensure the appropriate support is in place:

- Rigorous selection process for personnel.
- Dedicated technical support.
- Appropriate oversight.



Conclusion

Get to know your users:

- Early participation in or consultation prior to client meetings and all party meetings.
- Just in time training works.
- Encourage business side self-sufficiency in litigation teams.



Conclusion

Establish business processes:

- Work-flow & task management within litigation support centre.
- Prepare documentation such as checklists for the Litigation Support Centre functions and "how to" handouts for users.
- Service Level Standards.



**Good luck
to all
litigation support teams.**





Do Not Lose Sight of Common Sense:

- Early estimates as to volume & basic organization of the database.
- Factual issues - what activities and processes will be examined.
- 'Who', 'what', 'where', 'when', 'why' and how much (paper) - think about people ("key players"; potential witnesses).
- Maintaining contextual cues: organizing your documents to create a linear path from the file cabinet to the courtroom.
- Participate in reconnaissance with counsel.
- Don't make it big, if it doesn't have to be! Build your collection according to necessity, not capacity!
- Will the file have an extended lifespan?
- Could this case be a "test run" model for introducing my team to technology?



Do Not Lose Sight of Common Sense continued:

- How comfortable is counsel with the electronic medium and how committed are they to investing the time to use it effectively?
- Large turning radius - systemic problems in organization can take a long time to correct.
- Is money a factor and, if so, what are the relative costs? Don't assume paper production is cheaper. Scanning costs less than photocopying!
- Priming the client – what are the cost and resource implications?
- Considering the courts - securing approval and appropriate timelines from the Court.
- Solutions for problems that are not well defined - solid understanding of the litigation before a technical process can be introduced to support the litigation.