

EARLY CASE ASSESSMENT TOOLS & THE EMPOWERMENT OF LAW CLERKS

Traditional approaches to eDiscovery are being eclipsed by Early Case Assessment (ECA) tools which empower legal teams to quickly process, access and assess targeted case data. ECA tools provide more timely access to key information while eliminating irrelevant and redundant data, thereby enhancing the expediency and quality of the review process. ECA tools are helping to make document-by-document review a thing of the past and, at the same time, shifting the focus of clerks from an administrative function to more of a strategic one.

Strategic use of ECA tools can help validate case strategy and, if it doesn't locate the smoking gun, will at least help you prioritize key documents for review, map out realistic timelines and determine the resources required. In addition, many corporations are investing in ECA tools to help assess the potential costs of a case and to reduce the subsequent costs of the review process.

TOOLS	DESCRIPTION	BENEFIT
FILE PROPERTY ANALYSIS	Highlights key information related to document properties such as: date range, file type and file size	Enables you to quarantine files that are e.g., too large to review in a standard way, funnel specific document types (e.g., xls) into separate buckets for special review, etc.
FILTERS	Zooms in on and/or eliminate groups of documents by clicking on auto-populated "filters", e.g., domain name, date, custodian, doctype, etc.	Allows you to zero in on key "categories" of evidence, remove "junk" from the review process and instills confidence in the key custodians, terms and date ranges being used in the Discovery Plan
DE-DUPLICATION	Enables you to identify and/or remove exact duplicates from review	Streamlines process for more cost-effective and consistent results
DUPLICATION	Built-in "grouping" of similar documents	Expedites review of similar documents and promotes consistent treatment by reviewers
DISCUSSION THREADS	Groups emails by discussion thread rather than treating each email segment as a separate document	Expedites review of email correspondence and promotes consistent treatment by reviewers
CORRESPONDENCE PATTERNS	Identifies key participants of correspondence.	Enables you to zoom in on key individuals to quarantine potentially privileged information, zone in on key players - and perhaps detect someone who would have gone undetected, otherwise.
TRANSPARENT SEARCH CAPABILITIES	Allows you to view the "index" of document content	Provides a method for "informed searching" rather than shooting arrows in the dark
ANALYTICAL TOOLS	Detects predominant concepts/topics that show up within a database or subset of data.	Determining who knew what and when in the early stages of a case can be a game changer

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In some cases, ECA processing fees can seem cost-prohibitive at first glance. It is important to weigh out the value of any ingestion fees and to calculate the impact on overall review costs, while weighing out the benefits of almost immediate insight into your data. Furthermore, any preliminary review that can be performed by a law clerk is going to save the client costs while helping the firm maintain control over the review process.

There are a number of technology options (and price points) available in the marketplace, and, as usual, there is no one-size-fits-all solution. Some are hefty investments to purchase in the hundreds of thousands, others are free. If you are considering using ECA on your next case, it is best to customize a solution that is in line with your evidence and budget requirements. And, whatever investment you make, whether it be time, money or your reputation, it is usually best to choose a state-of-the-art tool and to engage professional expertise as there are a number of nuances to the application of technology to a case, workflows being a key consideration.

Having said that, one of the key benefits of ECA technology is its intuitive nature. End users can be up and running in a matter of minutes and those who thrive as “power users” on the team are well-positioned to master the key elements, thereby enabling them to play a “case management” role on the team.

In some applications, it is possible to perform a complete review and produce directly from the ECA platform. It is also common practice for key data sets to be exported – either to a more robust review platform or to the preferred in-house application. One of the key benefits is the ability to seamlessly preserve any work product from the ECA stage and carry it forward through the discovery process.

Technology is having a tremendous impact on the discovery process and is empowering law clerks by automating routine tasks and freeing them up to contribute on a more strategic level. The impact of ECA tools on how legal teams operate provides us a glimpse of how the law clerk role will continue to evolve in the decade to come.

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