

TECHNOLOGY IS KING

(BUT DOESN'T HAVE TO BE COSTLY)

At Solomon Ward Seidenwurm & Smith LLP, In-House E-Discovery and ESI Only Makes Cents for Clients and Colleagues

by Karen Gorden

For Solomon Ward Seidenwurm & Smith LLP, winning the National 2013 Law Technology News Technology Award for small firms was obviously an honor. The award is given annually to a single firm of less than 100 lawyers for reaching “every firm’s goal: the efficient effective and economical use and management of e-discovery...at far less cost than is customary.”

Yet the possibility of winning awards was not what drove the firm Solomon Ward to pioneer the use of technologies to sort through electronic information for relevance to a particular case. Bill Kammer, Partner and head of the firm’s e-discovery and ESI services team added, “We are honored to be singled out as a national leader in the adaptation and integration of technology by our firm. We’re a small, local law firm with about 30 attorneys, but we’ve done some big things in implementing electronic discovery solutions for our clients,”

Instead, Solomon Ward was driven by the desire to cut time and expense for clients. Kammer explains, “Our firm’s investment in cutting-edge technology results from our commitment to clients and cost efficiencies.” Additionally, Solomon Ward is hoping to help the San Diego legal community as a whole to better understand and utilize e-discovery options.

Making Cents for Clients

Indeed, Solomon Ward’s investment has been substantial, but worth every penny. “More than 90 percent of all information is created digitally and 80 to 90 percent of that information remains digital,” Kammer explains. As such, Electronically Stored Information (ESI) presents incredible challenges for attorneys when the vast amount of data must be collected, preserved and culled for relevance to a lawsuit or legal matter. Moreover, Solomon Ward found that outside vendors could be a more expensive and less efficient alternatives for these services, leading the firm to bring all e-discovery operations in-house.

“Five or six years ago, the cost of e-discovery in a case could easily exceed \$250K,” says Kammer. This priced too many clients out of the legal system, which Kammer sees as unfair. “We are able to do this work in-house for our clients for less than outside vendors might charge,” he says. “We can efficiently look at our own clients’ documents and whatever

documents the opposing side provides; even if they dump piles on us.” Indeed the firm uses the same technologies to review and analyze documents received from other parties with the same efficiency, and therefore, reduced cost to the client.

Utilizing Access Data’s Forensic ToolKit® (FTK), Summation Pro and its Mobile Phone Examiner Plus® (MPE+), Solomon Ward now has “a platform that includes predictive coding and filters so we can easily purge irrelevant data prior to human review,” Kammer says. This cuts time and cost immensely as “roughly 73 percent of the cost of data collection and analysis stems from humans having to read documents. We can eliminate that on the front end using Technology Assisted Review (TAR). This allows us to look only at the data we need, without reading that which we don’t. We are able to respond quickly to discovery requests and to begin building our cases with fewer billable hours, putting our clients in a position to resolve cases in less time and with quality results,” he adds.

The firm has a trained and certified e-discovery team to run the software and manage review teams, thus frequently eliminating the need to use the services of outside vendors. However in appropriate circumstances, the firm delegates particular evolutions to well-vetted and respected vendors. The implementation of this technology has been more than a year in the making; Kammer and his team basically served as alpha testers for Summation Pro. “We were one of the first firms in the country to have it up and running,” Kammer says. “We were able to implement it and inform the developers of problems or glitches. They would immediately fix it and then used our feedback to contribute to significant changes and improvements,” he adds.

Moreover, Solomon Ward’s team integrated MPE+ in response to a necessary demand. Laney Schatz, Senior Litigation Paralegal and Litigation Support Analyst received in depth training, sat for an examination and became a certified MPE+ examiner. According to recent studies, 76 percent of companies now have policies that allow employees to use their own mobile devices for work, resulting in an increasing need for e-discovery that extends to mobile devices. “80 percent of people now have a smart phone, and 40 percent have an iPad or equivalent tablet. These devices carry a vast amount of information. A typical



Bill Kammer, Partner and head of the firm's e-discovery and ESI services team; Brooks Pearson, Information Technology Manager; Laney Schatz, Sr. Litigation Paralegal/Litigation Support Analyst and Ray Bernal, Litigation Paralegal/Litigation Support Specialist

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smartphone carries enough data that we can produce a 300-page report showing GPS locations, texts, phone calls, photos, contacts, etc.," Kammer explains. This software is vital, he says, "because many times evidence can only be found on a mobile device." For example if someone was claiming that a coworker was sexually harassing them, the only evidence may be in a text message. You must collect, preserve and review that information."

Raising Standards in the Legal Community

Consequently, Solomon Ward's capabilities far exceed what many other firms have in place for e-discovery support, and as such they can also offer their services to other firms and sole practitioners at the same cost charged to clients. This can represent big savings for other members of the bar. "We have spent significant assets and time installing and adapting our technologies to provide optimal support to attorneys who want to manage their cases effectively," Kammer says.

Moreover, because local ethics rules require that attorneys who lack technical expertise in e-discovery associate with those who are e-discovery adept, Solomon Ward brings much needed and efficient solutions to fellow attorneys. For example, Solomon Ward's e-discovery and ESI team may be retained as co-counsel or as a coach for firms looking for efficiency and reduced costs. Each team member at Solomon Ward has extensive and continual training as well as periodic testing for recertification in the implementation and use of the technology. Although technology is not 100 percent fail-safe, Kammer knows that it is much more efficient and cost effective for clients than human review. "When we attack data, we put forth a good faith effort that complies with the rules of litigation," he says. A recent Rand study found that the cost to review a single gigabyte of ESI was about \$18,000. Efficiently and effectively sorting out ESI can save significant sums while

complying with the modern standards of discovery.

Kammer started using computers in 1982 and has been chasing software and solutions ever since. "It is important to help the profession as a whole to raise the bar when it comes to e-discovery. The legal profession is highly populated with liberal arts majors, and I'm one of them," he says. With an A.B. in Political Science from Fordham University, an M.A. in Political Science from Duke and his law degree from Tulane, Kammer says, "learning this technology is not only another logical exercise, but also our ethical duty to our clients."

Continuing, he adds, "You're not alone [if you're intimidated by the technology], but the profession as a whole needs to know how to use it efficiently and cost-effectively." To that end, in addition to offering services as a coach or co-counsel, Kammer regularly offers free MCLE courses and has helped established the ESI Forum in San Diego for the benefit of bench and bar. He is also a frequent lecturer to lawyers and other professionals on electronic discovery and expert witness topics.

Despite all his knowledge and the recognition that Solomon Ward is receiving under the guidance of Kammer, he insists "I'm really not a technology geek, I promise. I just know that for a long time attorneys have paid too much for e-discovery services. To best serve our clients, we have to serve them efficiently and effectively at a reasonable cost." ■

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