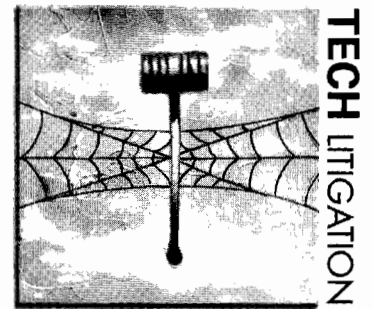


Techtrends

Monday, July 21, 2003

Volume 7, No. 3

Litigation Support Software Helps Level the Playing Field



BY JOSHUA K. LEADER

My firm, Leader & Berkon, has 14 attorneys. Fourteen is a great size in many respects: We can provide personalized service to our clients and foster an environment that is both flexible and collegial.

And we rely heavily on technology to increase our efficiency; on a certain level, it allows us to be several places at once. By making the most of available technologies, we can compete with much larger firms while enjoying the many benefits of our size.

But the one downside to having just 14 attorneys is that we don't have quite enough IT activity to justify an in-house IT staff. Hence it falls to the person most qualified — or least technology-averse — to step up to the plate when certain technology needs arise.

Joshua K. Leader is an associate at Leader & Berkon in Manhattan.

At Leader & Berkon, that person has turned out to be me (admittedly, with the assistance of our able IT consultants).

Our firm handles a great deal of complex litigation so reliable litigation support technology is of great significance. The need for digitizing our cases — especially the larger ones — struck home shortly after I joined the firm in 1996.

At that time, we were engaged in a sizable toxic tort litigation that would soon become massive. As the litigation evolved, tremendous amounts of documents were produced — hundreds of thousands of pages — which required a significant commitment of resources to review. On a more practical level, we lacked the physical space to accommodate the hundreds of banker's boxes worth of documents the case accrued. It was fairly obvious that we needed to move the documents into an electronic environment in order to meaningfully organize the evidence.

After a brief review of available

applications, we chose Summation Blaze, which was well suited for handling the practical problems we faced. It provided a platform for storing documents and depositions and would help us organize them in a manner that made sense in the context of our litigation strategy. We felt that implementing a litigation support application would level the playing field, allowing us to counter manpower resources of the large law firms with more efficient technology tools.

Good Information In

Digitizing a case, especially one of this magnitude, is not an instantaneous process. However, once the effort is invested, the benefits can be reaped for the life of a case.

The process of creating a document database begins by scanning the documents. We generally outsource our scanning work to a vendor specializing in electronic litigation databases.

The next step is constructing the database in Summation, where infor-

mation pertaining to each document is stored and searchable. Each database contains fields to be populated with basic bibliographic information pertaining to each document. The information captured in the database can be as broad as the case requires.

The final step — and perhaps the most important — is the subjective coding of the documents. Details about a given document regarding issues relevant to the case are entered into the database. This is very useful for later searching and digesting purposes, and helps isolate “hot” documents.

A variety of search options are available in Summation, from a search of the full text of the database to specific field searches. You have the option of sorting search results by the fields you’ve assigned to each database record — a powerful tool for creating a case chronology or outline. You can toggle from search results to the document summary (and/or the document image associated with the summary) for closer scrutiny. This allows a central focus as specific issues are examined and critical details isolated.

The portability that an electronic case affords is also worth noting. When traveling to a deposition, I can look at documents on my laptop while in transit, potentially saving hours of work. I wouldn’t transport 20 boxes of documents on a plane, but a few CDs don’t present a problem.

Depositions, Too

The searching and indexing capabilities for documents extends to deposition transcripts as well. All the integrity of the hard-copy transcript remains intact, including line numbers. You can perform full-text searches of a single transcript or multiple transcripts. When you come

to meaningful testimony, you can leave an electronic note in the margin with thoughts or issues relevant to the case. All this information can also be searched.

In addition to a transcript manager, Summation also offers Interactive Realtime. This technology permits attorneys to view the live transcription of a deposition as the court reporter keys it in, and electronically mark and annotate that testimony without losing focus on the proceedings.

This functionality is extremely valuable, especially in depositions with technical and expert witnesses. During breaks, I can return to earlier testimony and clarify exactly what was said, making cross-examination much more effective.

Tying Things Together

How litigation support software can help firms like mine battle Goliath opponents is best illustrated by the story of a recent case.

We had a huge commercial litigation arising out of the sale of a company, including allegations of accounting fraud that was resolved this spring. We were defense counsel opposed by one of the largest firms in New York City.

There was massive discovery — literally rooms full of documents. Using Summation, we were able to organize the documents in a cohesive manner, putting at our fingertips all the evidence needed to defend claims against our client. Likewise, we were able to categorize the scores of depositions associated with the case and link relevant passages of testimony to related documents, with those links visible in subsequent searches. This is one of the beauties of the program’s integrated nature — all evidence, whether it’s documents,

depositions or electronic evidence, can be searched simultaneously.

As the case progressed to mediation, we were well prepared with the necessary testimonial and documentary evidence. We would not have been able to do so as effectively had we been sifting through banker’s boxes and binders.

Electronic organization made case information immediately accessible. This put us on much more equal footing with the big firm, which had the resources to throw as many people as needed on the project. Indeed, each session of the mediation opened with a parade of paralegals and junior associates from our big firm adversary hauling dozens of boxes of documents while our team arrived with a pair of laptops containing all of that information and more.

There might be that unique individual out there who can remember every witness’ testimony and the contents of every document, but software today eliminates the burden of trying to remember such vast and disparate information and instead makes it available at the push of a button.

Such technology allows firms like ours to function with a leaner, more agile support staff, which ultimately translates to substantial improvement in results and cost-savings to our clients.

**LEADER
& BERKON
LLP**

630 Third Avenue New York, NY 10017

Tel (212) 486-2400

Fax (212) 486-3099

info@leaderberkon.com

www.leaderberkon.com