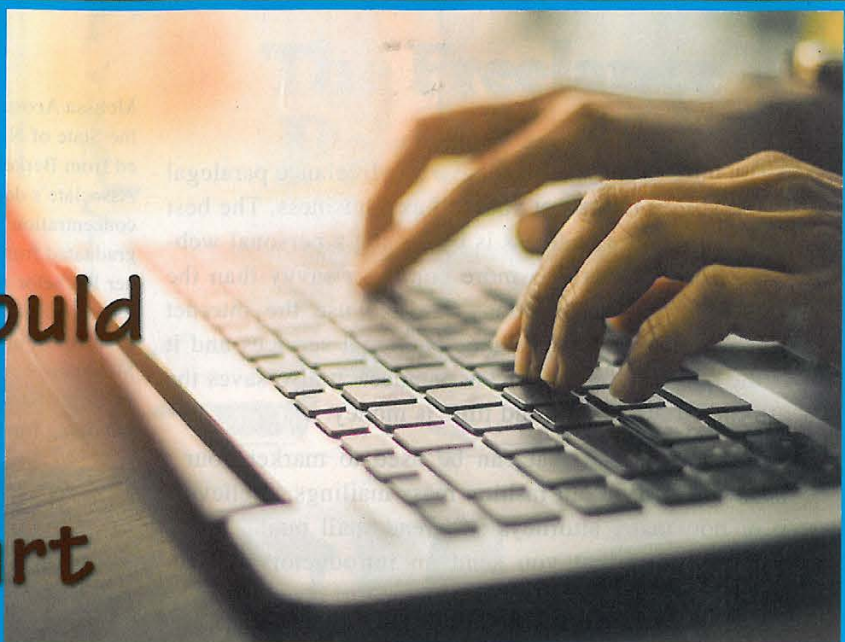


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## Paralegals in eDiscovery: Why They Should Be Involved From the Start



BY BARRY SCHWARTZ

Undergirding every successful legal team are paralegals who maintain files, assist with depositions, coordinate schedules and help prepare cases for trial or settlement. But as technology use has grown, both in society in general and in the legal industry, more paralegals are taking on roles in eDiscovery.

Many paralegals are now responsible for helping oversee eDiscovery work in a case, carrying out such tasks as identifying custodians, facilitating legal holds, assisting with custodial interviews, overseeing collections, helping with coding and review and generating reports. Their role can also include working with eDiscovery vendors and in-house personnel, as well as various databases.

Because paralegals can play such a key role in this critical process, it's important to involve them in eDiscovery from the very start.

### FOUR REASONS WHY:

#### 1. To implement an eDiscovery playbook

An important element of successful eDiscovery is adhering to consistent practices from one case to the next. By implementing an eDiscovery playbook – a guide that outlines the necessary steps of eDiscovery and how they are to be handled – a firm can increase its efficiency and ensure it meets all requirements for a case.

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This type of guide, which is usually a collaboration between firm members and vendors, is invaluable in helping to address many key elements of eDiscovery such as:

- Legal holds and custodian questionnaires
- Data collection and processing
- Review protocol
- Document production protocol
- Technical resources

This plan typically also designates specific employees to carry out the various elements of eDiscovery, which is where paralegals come into play. They are often responsible for implementing portions of the guide and making sure each case is handled correctly and consistently.

Establishing regular eDiscovery practices will transform the typical ad-hoc approach into one that is smooth and predictable – saving time and creating new efficiencies as they are repeated for every case.

### **2. To create and maintain the database**

From the moment a client signs on or a legal matter begins, paralegals are often involved with helping to identify custodians, initiate and manage litigation holds, assist with collections, create workflows and conduct the review.

Effective eDiscovery relies heavily on a comprehensive, well-organized database. And because paralegals will be working in this database – both for the current cases and for cases potentially far in the future – it is key for paralegals to be involved in creating it. This ensures they know how it is set up and how to properly maintain it.

If an outside vendor is involved, it's still important for the paralegal to be part of

conversations about – and training on – the database and other technology and platforms used. The paralegal will be involved with monitoring progress and completing internal tasks, such as uploading additional data, running searches, gathering items needed for deposition and more. Including paralegals from the outset of the case reduces confusion and improves efficiency. It's also a good idea to develop a strong relationship with vendors, who can provide the latest knowledge and developments in eDiscovery.

### **3. To help establish protocols for review and production**

Following data collection and processing, relevant documents are uploaded to an online review platform. Here, paralegals may assist in implementing specific review protocols, such as how confidential documents and redactions are handled, what the procedure is for quality control and what methods will be used for finding responsive documents, including using search terms, predictive coding or another method of technology assisted review (TAR).

Paralegals may also help with the privileged documents, making sure they are properly tagged and recorded in the log. If paralegals were involved in setting up the database, they will know how the files and tags are organized and coded and will be able to maintain consistency with previously collected data. When paralegals participate in the coding of documents, they are better able to navigate the database to gather necessary documents and run future queries on the same set of data.

Upon completing review, the paralegal assigned to the case can also provide direction for the

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formatting of productions. Each case is different, so there are many factors to consider. Should emails and attachments be produced together? How will TIFF data with text files be handled? Does metadata need to be produced? Each of these questions can be answered by the paralegal managing productions, who will confirm the right materials are presented in the correct format.

### **4. To assist with project management**

In many cases, paralegals may serve as project managers, overseeing the entire process – from legal holds and data collections to processing, review, production and more – guaranteeing that the timeline, workflows and budgets stay in check. Paralegals are skilled at keeping things organized and making sure tasks are completed on time, which are necessary for a smooth eDiscovery process. Project management may also include acting as the day-to-day liaison between

the eDiscovery vendor and the firm, especially when the overseeing attorney is preoccupied or out of the office.

Paralegals are a vital component of a successful legal team, and they are becoming even more valuable as members of an eDiscovery team. Because this is becoming a trend in paralegal career paths, it's important to get them involved early on so they can be equipped with the knowledge and training they need to help ensure the process happens accurately and effectively.

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