

Controlling Legal Costs – Service Providers

Controlling E-Discovery Costs Through A Structured Process Management Approach

The Editor interviews Adam Seskis, Senior Vice President, Operations, Epiq Systems, a leading e-discovery provider.

Editor: Adam, please describe your client services and project management approach at Epiq Systems.

Seskis: Epiq works with corporations and law firms to manage evidence identification, collection and document review for complex investigations and litigation. Epiq also assists global corporations and law firms with implementing best practices to support the e-discovery lifecycle. Within Epiq Systems' eDiscovery division, our operations team is tightly integrated to ensure that our law firm and corporate clients receive high-quality, accurate, and responsive service and support at the right service levels for their projects. To do this, we marry project management and industry best practices to align internal resources and workflows and to meet our clients' specific criteria.

Editor: Alternative billing and value-added legal services are important issues currently addressed by corporate counsel; the Association of Corporate Counsel (ACC) is acknowledging these issues in their own criteria. Also, Lawyers for Civil Justice (L.C.J) is actively promoting changes in judicial rules designed to reduce the cost of e-discovery, and these changes are being tested in pilot programs. Please tell us how you view these scenarios in relation to e-discovery and controlling costs.

Seskis: This dialogue very much impacts the e-discovery service area since costs for this process are one of the largest areas of expense for corporate counsel. Law firms are focusing on value in response to budgetary concerns voiced by corporate counsel. But to deliver the same high-quality legal services at a lower cost they may need to evaluate practices and processes. A structured, clearly defined and classic process management approach will contribute to controlled costs long term.

ACC's creation of the "Value Index," a yardstick for measuring customer satisfaction for law firms, challenges them to demonstrate commitment to budgets, pricing predictability and continuous process improvement. From the perspective of corporate counsel, law firms should adapt or mirror accepted standards of classic project management used by many companies. Solid project management directives, along with alternative billing arrangements, may do more to achieve today's cost control endeavors and build relationships than any other single initiative.

L.C.J supports reforms of judicial rules to improve judicial management of e-discovery by focusing e-discovery on information pertinent to the litigation and by limiting sanctions for destruction or failures to preserve electronically stored documents.

As support for these reforms expands, law firms will need to place more emphasis on project management so that their clients fully realize cost savings and other benefits.

Editor: How does project management provide value to corporate counsel?

Seskis: Alternative billing arrangements will not mask inefficiencies in discovery

processes or save a matter that is off-track and behind schedule. Innovative new technologies, such as Epiq's recently launched IQ Review, can speed up document review, and solid project management skills will keep the team working towards meeting the cost and time constraints that define the project.

Corporate counsel will derive value when they create a partnership with their law firms and vendors to implement new processes that create value for them – the bottom-line benefit of good project management initiatives. Even when significant components of a project are outsourced to third parties, good project management strengthens the relationship between corporate counsel and law firms.

Editor: As you have stated, the largest manageable cost for the corporate client in litigation relates to e-discovery and document review. How does project management strategy help keep a matter on budget?

Seskis: The key here is understanding the downstream impact of decisions that are made in the heat of a project. Understanding the dependencies between work streams will clearly highlight the impact of a decision. Risk analysis, which is an important part of the process, will highlight early on the probability and exposure of certain events. With these identified, the plan and budget can be set appropriately.

There are a number of approaches that lawyers should consider as they work to immerse themselves and their vendors into a project-based type of environment that offers benefits to corporate counsel. Matters are kept on budget because progress is tracked and benchmarked as the project moves forward, permitting the team to change and adapt along the way. Whether related to litigation or corporate matters, the most efficient way to manage expenditures for globally performed services is to implement a repeatable project-management process.

Editor: What can law firms and their counsel do to embed project management in their next big matter? Where do they start the process?

Seskis: The process can actually begin at any stage, but it should include all groups who are responsible for contributing to the stage's completion. It may ultimately be up to corporate counsel to suggest and champion best practices in adopting an approach. For law firms, these best practices may already have taken root in their IT or litigation support departments. Training and certifying staff is an investment that can lay the foundation for law firms and in-house counsel to see predictability, consistency and greater billing efficiencies for their complex projects.

Editor: What is Epiq doing to instill sound project management practices at its own firm and in client engagements?

Seskis: Epiq's U.S. client service teams



Adam Seskis

receive PMP (Project Management Professional) training leading to certification with the Project Management Institute. One benefit to this is that clients can expect process consistency from that team no matter who is placed in charge of a matter. Epiq achieves similar consistencies in the United Kingdom by using the "Prince2" project management methodology and certification. We conduct our internal processes to leverage the best practices that support our engagement process. The key to implementing more rigor around an internal process is to understand that too much process may stifle an organization's ability to deliver technology and service that meets clients' expectations. It is a careful balancing act.

Many of our corporate counsel operate in environments where these or similar techniques are used in other areas of their organizations but have yet to take root in the legal department. We suggest to these clients that they identify a "champion" who can partner with an existing project resource in IT or operations to see the process in actual operation. If a client lacks internal skills, Epiq can recommend and provide training to implement best practices that work with their existing business workflows.

Additionally, key documentation should be standardized and required for every engagement. These should include a project initiation form and checklist, a risk assessment form, a standard status report and, of course, a project template.

Editor: How is technology contributing to improved cost controls and creating a more efficient workflow?

Seskis: We continue to seek innovative ways to reduce the cost of e-discovery for corporate clients. We expect to see a continued emphasis on reducing costs throughout e-discovery and document review processes, with a strong focus on implementing data reduction strategies as early as possible.

With an increase in investigations and regulatory matters that have very short deadlines, coupled with self-monitoring by corporations, we will continue to see an increased focus on methods that support locating and reviewing relevant documents as quickly as possible.

Editor: Traditional search terms are no longer viewed as the most effective means of identifying relevant documents and reducing document review time. How do you view the current debate around traditional search terms and other technology methods?

Seskis: Law firms and corporations are looking for smarter, more efficient ways to manage discovery and investigations. The key to reducing the cost of review has long been to reduce the number of documents to review. To this end, a variety of highly effective analysis tools like e-mail threading, near-duplicate identification, and concept clusters have increasingly been incorporated into the process.

New prioritization technologies take this trend further by enabling two key improvements: the identification of likely relevant documents in advance of the document review phase and the ranking of documents from most to least important. Epiq

incorporates this approach into IQ Review.

Combined with traditional search and analysis tools, prioritization accelerates the discovery of key documents and allows the creation of tiered workflows. When using prioritization technology, the most seasoned and expensive reviewers focus on the most important documents, while the least experienced and less expensive reviewers screen less relevant or irrelevant information. This approach optimizes the legal team's resources and minimizes the time required to review documents and develop strategy.

Editor: What are the measurable outcomes of a good project management approach that helps control costs?

Seskis: Implementation of a project management methodology will improve a firm's ability to execute engagements on a consistent and repeatable basis and improve quality of output (such as allowing time for multiple iterations of work product). The result of a well-documented, properly executed plan is increased client satisfaction. Understanding the resource and time constraints required to complete a project helps provide greater transparency and certainty to a project's cycle and cost. While these techniques are commonly used in global corporations, law firms may also benefit by adopting some of these practices.

Editor: What are some of the reasons for failure in early attempts to manage a process?

Seskis: One reason is the lack of ownership and buy-in from all parties. As a project changes from the original objectives, and it typically will, someone must be updating the plan and keeping the team on course during the heat of a matter. Since delivery dates and deadlines seldom change and remain fixed, it is key to manage timelines to assure objectives are met.

A second reason for failure may be the lack of standardized documentation that allows for risk assessment and standardized reporting. These should include a project initiation form and checklist, risk assessment form, standard status report and, of course, the project template itself.

Finally, lack of communications will always cause problems. A common dialogue and understanding between participants should be developed. It is important that all participants, whether they are resources or sponsors of the project, not only buy into the process but also support and coordinate activities through the plan owner.

Editor: Could you provide some final advice on controlling costs and project management?

Seskis: Only positive outcomes will be realized if a project management strategy is adopted, particularly when applied to e-discovery. The process of reviewing your plan throughout an engagement assures that there are continual improvements and efficiencies in the work. When project management is effectively combined with advanced technology, corporate counsel and their law firms will have greater insight into the impact of their decisions across any engagement and the apportionment of costs across the various stages.

Please email the interviewee at aseskis@epiqsystems.com with questions about this interview.