

# Litigation and Dispute Resolution

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The process of taking legal action through the courts to resolve a dispute between parties.

## USE CASE IN PRACTICE

### Document Review Optimization

Legal professionals can utilize the Legal Data Intelligence model to identify data relevant to litigation, as well as to determine which documents should be withheld from production for reasons such as attorney-client privilege or the work product doctrine.

## MODEL WORKFLOW

### Initiate

## Scope Project

Assemble an appropriate team of subject matter and technical experts, including any specific external experts that may be required (e.g., external and internal counsel, business leads, IT leads, LDI practitioner, forensic expert)

Gather facts: what are the claims/defenses?

Define goal and parameters, establish metrics

Decide on most suitable approach to dispute resolution (e.g., litigation/mediation/arbitration)

Identify what types of data/information may be useful (consider non-standard data types)

Set guidelines and protocols based on laws/regulations and risk tolerance

Develop playbooks, model agreements, fallback provisions, and escalation procedures

Confirm any production requests/obligations including formats/protocols and determine deadlines

Evaluate composition of team and revise as needed based upon the analysis above

### How Technology Can Assist

Uses analytics and AI systems to identify potential gaps or areas of focus

Enables analysis of the merits of the case and comparisons to similar or historic cases

Captures and organizes objective metrics for each matter (e.g. fees, costs incurred, time to resolution) to enable informed decision-making

### Notes

Use of analytics and AI should be subject to local regulation, transparency requirements, and ethical constraints.

## Identify Data

Define data sources, custodians, and specific criteria (e.g., date ranges) through custodial interviews and discussions with IT administrators

Ensure identification exercise is sufficiently robust (consider if you need an expert to assist) and periodically reevaluate to account for additional sources discovered

### How Technology Can Assist

Tracks data sources from identification through preservation, collection, and processing to ensure nothing is missed

Quickly identifies sources and locations of potentially relevant data when using a well-integrated and up-to-date knowledge management or information governance system

Analyzes common data to identify additional data sources or off-channel communications

### Notes

Determine if a client's in-house systems have search and identification functionality that is sufficiently robust.

## Preserve and Collect Data

Consider whether data can be preserved in place by use of robust legal hold or similar functions, or whether data should be collected to preserve it

### How Technology Can Assist

Provides legal hold functionality to preserve data in place to ensure it cannot be deleted (where appropriate)

Tracks the implementation and oversight of each legal hold, including periodic reminders and audits to ensure compliance

Ensures data that should be preserved is correctly secured as required (note that once preserved, data need not be processed until or unless needed)

Ensures data is preserved and collected while maintaining both file and system application and system metadata (if appropriate)

### Notes

Take care to ensure that data is collected in line with legal requirements in the relevant jurisdiction(s).

More challenging sources, or sources containing potentially ephemeral data like mobile devices, may need to be imaged swiftly to ensure preservation.

## Extract and Process Data

Select and extract the data to be processed from the data that has been collected so it can be loaded onto a review platform

### How Technology Can Assist

Applies filters and other criteria to minimize data to be extracted and processed, thereby reducing the processing of ROT data

Quickly manages large data volumes

- Reads and records metadata of files for searching and analytics
- Extracts attachments and expands compound files
- Indexes content to enable searching and analytics
- Identifies encrypted files and files that could not be read for exception handling
- Eliminates manual workflows and reduces human error
- Reduces hosting of ROT data and thus hosting cost through de-duplication, de-NISTing, etc.

## Investigate

### Search and Evaluate Results

Run searches/analytics/machine learning to find pertinent data, review the search results, and cull unresponsive data

#### How Technology Can Assist

- Allows for complex Boolean searches and filtering using content and metadata
- Performs complex searches and summarizes large data sets using generative AI
- Enables custom tagging and foldering to classify and stratify data
- Reduces review volume/ROT data with tools like email threading, deduplication or suppression of near-duplicates, categorization, and clustering
- Codes documents based upon training or prompts using traditional and generative AI tools
- Creates custom chronologies using traditional and generative AI tools

#### Notes

Use of analytics and AI should be subject to local regulation, transparency requirements, and ethical constraints.

### Analyze Data

Examine data to find relevant information, privileged information, personal information, patterns, and insights

#### How Technology Can Assist

- Performs complex searches, including regular expressions
- Identifies specific data sets and privileged documents through prompts and training using generative AI
- Conducts visualization methodologies and gap analysis
- Summarizes files for potential use in listings (e.g. privilege logs)
- Provides explanations and citations to help validate output

#### Notes

Use of analytics and AI should be subject to local regulation, transparency requirements, and ethical constraints.

## Apply Strategic Decision-Making

Determine the data that will be produced

### How Technology Can Assist

Prioritizes data for review based upon training or prompts using traditional or generative AI tools

Exports fielded data in custom formats for metadata privilege logs, key document chronologies, and so on using review and production platforms

### Notes

Use of analytics and AI should be subject to local regulation, transparency requirements, and ethical constraints.

## Implement

## Synthesize and Redact

Conduct defensible quality control review of the data set

Ready the data set for production according to requirements (e.g., redaction)

### How Technology Can Assist

Applies defensible verification of any predictive coding or generative AI methodologies

Tracks document counts and tags files

Automates and/or applies redactions

Performs quality control by identifying errors or inconsistent coding, standardizing production rules, etc.

### Notes

Use of analytics and AI should be subject to local regulation, transparency requirements, and ethical constraints.

## Generate Output

Run production to create required output

### How Technology Can Assist

Applies Bates or other stamping, if needed

Creates output in usable, secure forms for all parties

Produces data that meets requirements in local regulation, agreed protocols, or court orders

## Produce

Deliver required output

## How Technology Can Assist

Exports/migrates data in required format

## Record/Document

Document results and metrics for use in future analytics and analysis

Document any lessons learned to assist with future matters