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Once a technology is implemented, who are the key front-line users and how should the technology be deployed – or “seeded” – for a specific matter to maximize relevant document productions?

While some approaches call for the use of “experts” or “senior attorneys” to help “seed” predictive coding systems, it strikes me that this approach seems to assume that early in the litigation, senior or more experienced lawyers have some special knowledge of what the document might say. In my experience, senior litigators often learn about the facts presented in the documents from junior lawyers who are more likely to have responsibility for collecting the documents and interviewing client personnel.

Once litigation commences, the lead or senior litigator faces great demands on his or her time. It is almost as if someone called “Battle Stations” on a naval warship. When the alarm sounds, the crew prepares the ship to join battle; they report to their stations and prepare for action.

At this time, the lead litigator immediately begins assigning lawyers to various tasks that require immediate attention. There are motions to be made and responses to be drafted. Legal research projects are initiated. Client strategy meetings are conducted. Correspondence flies back and forth between the parties. A whole range of complex projects begin (almost) simultaneously. As a practical matter, it may be very difficult, if not impossible, for senior attorneys to dedicate a large block of time to review sample sets of documents.

It is for the reasons described above, that the successful implementation of advanced technology requires a well-organized effort. This effort includes lawyers and lit tech staff that have experience in managing and operating sophisticated litigation software tools. This experience is gained through the successful management of review projects using on-line hosting review systems, and hands on experience with the management tools that typically accompany these systems. The effort also requires service providers that can deliver data that not only meets the required specifications and but also makes critical deadlines. Lastly, clear, crisp and timely communication, between and amongst the review team, the lit tech support staff and service providers is vital.

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