

# Hinshaw & Culbertson LLP

E-Discovery in Action: Lowering Costs, Meeting FRCP Guidelines, and Avoiding a Motion to Compel

## HINSHAW

& CULBERTSON LLP

### CHALLENGES

- 2 day deadline to produce responsive documents
- Missing deadline would evoke a Motion to Compel
- Eliminate potential e-discovery liability in court

### SOLUTION

- D4 litigation consulting for end-to-end e-discovery services
- Clearwell E-Discovery Platform for processing, cull-down, search, analysis, and review
- Clearwell's Transparent Search to ensure defensible e-discovery

### BENEFITS

- Processed all case documents in 1 day and culled out 99.9% of documents in hours
- Met court appointed deadline and avoided Motion to Compel
- Provided transparency and reporting on e-discovery process to meet defensibility requirements

*"Clearwell helps us concentrate our brainpower on the case versus the technology, and we plan on using the software for many other cases within our firm, particularly for early case assessment and defensible search."*

Tom Proctor  
Litigation Support Manager  
Hinshaw & Culbertson LLP

### OVERVIEW

Two years following the Federal Rules of Civil Procedure (FRCP) amendments, law firms and enterprises are feeling the pain of complying with more timely production of electronic evidence. Just ask Tom Proctor, Litigation Support Manager and Evan Brown, Associate, at Hinshaw & Culbertson LLP, an AmLaw 200 firm with 475 lawyers in 25 offices. Proctor and Brown are members of the firm's Electronic Discovery Response Team where they are involved in litigation matters that require processing, analysis, review, and production of electronically stored information. Under the threat of a Motion to Compel, Proctor and Brown filed a Rule 34 Response to buy more time in an employee discrimination case. With just days to respond, they consulted with D4, a leading national e-discovery and litigation support services company, and decided to use the Clearwell E-Discovery Platform. Over the course of a single afternoon, Proctor and Brown used the software to rapidly process, defensibly search, intelligently cull the 76,000 messages, ultimately identifying the 18 relevant documents and avoiding the Motion to Compel. "Clearwell's intuitive Web 2.0 'look and feel' and fast processing time, combined with D4's thorough and quick training were critical to helping us be successful," said Proctor.

### CHALLENGES

Prior to using the Clearwell E-Discovery Platform, Proctor and Brown relied on the manual, labor intensive e-discovery methods used by most law firms. This typically involved walking back and forth between the IT and Legal department to conduct searches, and collecting information from individual attorneys who had their own proprietary knowledge of a case but lacked the ability to collaborate with IT or each other. On average, this process took one week or more to accomplish, depending on the volume of data, number of custodians and litigation matter.

In some cases, Proctor and Brown would use litigation support software from Summation which took three to four days to process the data plus another two days to search, cull, and review. In addition to the time involved, Summation lacked the ability to iteratively refine the results and did not provide transparency and defensibility (e.g. an auditable report) that would be admissible in court. "Using a tool that is not optimized for rapid processing, intelligent analysis, and defensible search is very cumbersome—it's like applying a blunt force approach to something that requires lots of sculpting and fine tuning," said Brown.



*"I love Clearwell's robust tagging features and review capabilities. It provided a new level of 'transparency' into the search process and gave us a high degree of confidence in the defensibility of our results."*

Evan Brown, E-Discovery Associate, Hinshaw & Culbertson LLP

With just days to react and limited headcount, Proctor and Brown realized neither of these approaches would work. They had to quickly and accurately sort through 76,000 email messages in multiple PSTs (with attachments and metadata) spanning four custodians. This task would be especially challenging because Hinshaw & Culbertson standardized on Lotus Notes for email not Microsoft Outlook, so they would need a way to seamlessly process and view native PST files.

#### SOLUTION

"Seeing Clearwell was like a breath of fresh air, it makes you want to use it," said Proctor, after receiving a demonstration of the Clearwell E-Discovery Platform from D4 a few weeks earlier. "When Tom contacted D4 about using Clearwell for the case, I agreed that it was a fantastic solution for the problem at hand and recommended that he send us the data so we could load it into our system," said Myron Jadwin, Director of Discovery Engineering for D4.

Proctor overnighted the data to D4's data center where it was staged, and Proctor and Brown were off and running the next day after only 45 minutes of training. "The entire process from data submission to results took just several hours, and the experience felt more like web surfing than

e-discovery because of Clearwell's intuitive, web-based user interface and powerful culling capabilities," said Brown.

"Every bit of data culled using Clearwell saves the client money, and in this case alone we saved the client about \$25,000 in attorney fees," said Proctor. To narrow down the 76,000 messages, Proctor and Brown performed the following analysis:

- First pass review: applied domain/sender and date range filters to the 76,000 messages, reducing the data set to 5,000
- First keyword search: defensibly reduced data set from 5,000 to 300
- Second keyword search: defensibly refined the results and minimized relevant data set even further to 18

By receiving a comprehensive picture or "snapshot" of the data as he went along, Brown was able to fine-tune his search queries based on the results. "I love Clearwell's robust tagging features and review capabilities," said Brown. "It provided a new level of 'transparency' into the search process and gave us a high degree of confidence in the defensibility of our results."

The Clearwell E-Discovery Platform's HTML rendering of email messages and attachments also enabled Brown to view, analyze and review their clients PSTs files without requiring

an Outlook installation in their NSF environment. He also liked logging in remotely from home without loading client software, this was especially useful given the after hours and weekend work involved with his job. Additionally, Clearwell's collaborative analysis and review capabilities eliminated the need to physically walk over and engage with Proctor in IT on the search—saving time and money for the firm and for the client.

#### BUSINESS BENEFITS

"Clearwell helps us concentrate our brainpower on the case versus the technology, and we plan on using the software for many other cases within our firm, particularly for early case assessment and defensible search" said Proctor.

Hinshaw & Culbertson has achieved the following benefits from the Clearwell E-Discovery Platform:

- Reduced time spent on ESI review by more than 50 percent
- Saved the client approximately \$25,000 in legal fees. Including a reduction of 65 percent on ESI processing expenses
- Lowered case management/litigation support effort by 75 percent
- Avoided motion to compel and ensured compliance with FRCP deadlines
- Achieved greater competitive edge over other law firms

To learn how Clearwell and D4 Consulting can deliver value to your organization, contact an e-discovery expert at: [www.d4discovery.com](http://www.d4discovery.com), or call us at: 866.625.2720.



**Clearwell Systems, Inc.**  
441 Logue Avenue  
Mountain View, CA 94043  
650.526.0600 tel  
650.526.0699 fax  
[www.clearwellsystems.com](http://www.clearwellsystems.com)



**D4 LLC**  
[www.d4discovery.com](http://www.d4discovery.com)  
866.625.2720 tel  
[info@d4discovery.com](mailto:info@d4discovery.com)