**Extortionary eDiscovery**

**Solution**

Legility leveraged new technology - at a fraction of the cost of traditional indexing - to index and search more than 500 million records within the backup tapes without restoring each one.

**Challenge**

Cull 400 backup tapes (about 400 TB of data) quickly and economically in an effort to resist the extortionate eDiscovery costs that drive settlements.

**Background**

A corporation was faced with an employment suit against one of their managers. Once the lawsuit was filed, the company did what it felt was necessary to preserve data.

**By setting standards and auditing employees to ensure they are following them, the corporation took control of its data and reduced legal liability.**

Even though this was not a high damages case, the company took what it felt were reasonable steps to preserve information. Despite this, there were some gaps and chain of custody issues. For example, imaged hard drives sat on an IT desk for weeks rather than being shipped to Legility for collection and analysis, and preservation in place arguably may not have been the best method for protecting electronically stored information (ESI).
Attorneys for the plaintiff attacked the preservation methods and requested that all the backup tapes be included in discovery because a material memo may have been deleted. They were able to use the judge’s relative inexperience with eDiscovery to make the huge task of collecting and processing 400 TB of highly duplicative data seem simple.

The traditional process would have required each tape to be restored to a computer, indexed, searched and deduplicated. Depending on backup procedures, the data on one tape could easily be 95 percent identical to the data stored on tapes for previous backups. The only difference between the tapes would be whatever documents were changed between backups, so restoring and analyzing data on all 400 tapes would have resulted in highly duplicative data. Plus, the 400 TB of information would have cost millions of dollars - a fact opposing attorneys used to attempt to force a settlement. It was extortion via eDiscovery.

Legility met with opposing attorney to negotiate the scope of the collection. It was agreed to focus on 175 tapes, and the specific tapes to be used were chosen during this meeting. These tapes housed close to 251 million documents totaling 40,838 GB of data before deduplication. Even with this reduced data set, production costs were going to be more than $3 million.

Legility leveraged a new technology to help further reduce the data. Through this alternative workflow and technology, Legility successfully indexed file level content and metadata without restoring the tapes. This solution allowed Legility to extract file text and information and make it searchable without huge restoration and processing costs.
After running this process, Legility indexed, duplicated, file type filtered and date filtered the data set, reducing it to just over 10 million documents totaling 3,601 GB of data.
Legility used powerful new technology to export the data to a hard drive, and the data was uploaded into Catalyst, a review platform, so attorneys could perform additional screening for privileged information. Legility also applied search terms - including combination of search terms and proper names - to the new data set. Key term and privileged searching reduced the data set further to just over 600,000 documents (or 413 GB of data).
By finding the correct tool for the job, Legility reduced 400 TB of data to 413 GB in less than three weeks at a cost of less than $500,000.

This case was an eye opener for the client. When a company is regularly involved in litigation, it becomes necessary to adopt preservation standards for data.

Subsequently, Legility’s client changed the way it approached data management. Legility helped establish an information governance policy to determine what data should be saved and for how long. By setting standards and auditing employees to ensure they are following them, the corporation took control of their data and reduced their legal liability.

There is no reason to keep decades worth of data just because you can. While it doesn’t cost much to keep a data tape in a drawer, the potential exposure to extortion via litigation can be very expensive. Companies routinely keep unnecessary data, and Legility can help them determine a better approach than more and more backup tapes.

Legility successfully found the right technological tool to produce a clean, defensible data without the collection and analysis process becoming prohibitively expensive. The client alleviated future liability by adopting data management standards to legally reduce the amount of data actually stored.

Indexing and searching 400 TB of data would have been a burden too huge to bear. Demands for such large data sets are part of a strategy to extort a settlement from a defendant, and sometimes – usually out of a lack of understanding about eDiscovery methods – a judge will allow these demands for huge amounts of data to go forward. Large amounts of data make a routine case suddenly very costly, but a good eDiscovery partner can find a new solution and offer recommendations.

**The Real Lesson**

**Conclusion**