

Why Law Firms Need to Add Early Data and Case Assessment to Succeed in 2023



Introduction

It is no secret that in the last two years the new work environment created by the pandemic has suddenly caused an explosion of electronic data, which, combined with the burdens of discovery compliance, has created a very challenging environment for litigation firms to keep pace with the volume of data discovery.

The outsourcing of eDiscovery has enabled law firms to keep pace with the volume of data. However, at the same time, it has also created major challenges with soaring eDiscovery costs and a loss of control over key aspects of their clients' cases.

With the outlook on the complex macroeconomic environment of 2023, the likelihood of a resurging of alternative fees arrangements, and the mounting pressure from GCs to do faster litigation evaluation, litigation firms must explore opportunities to bring at least some of eDiscovery back in-house where they have more control and can create a smoother transition into review.

The good news is that technology creates new opportunities to regain control of the explosion of data and reduce the cost of eDiscovery. The advances made in early data analysis (EDA) and early case assessment (ECA) by softwares allow firms to better understand and deal with the very large data sets resulting from the growing volume of electronic evidence in litigation and regulatory investigations.

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Most Common Challenges that Law Firms are Currently Facing

According to the survey conducted by Thomson Reuters in 2021, the two most apparent challenges that law firms have been facing lately include:

1. Increasing internal efficiency

Despite increased workload and staff shortages, only 20% of respondents pointed out that they plan to increase their firm's internal efficiency by increasing investment in support staff, non-legal-specific technology, or legal-specific technology in the near future.

44%

In fact, "44% of respondents admit they don't yet have a plan on how to address the fact they spend too much time on administrative work."

Thomas Reuters, 2021

2. Improving business development

About 30% of respondents claimed that they have plans to increase their business development investments in 2022. About 40% of survey participants have said they are planning to increase their marketing expenses over the next three years in order to be able to attract new clients.

Nevertheless, the challenge of acquiring new clients would not get fully addressed by simply spending more money.

As efficiency and cost effectiveness are one the most important criteria that clients look for when choosing a law firm partner, it is essential for law firms to focus on improving their internal operations to be able to stand out from the competition.

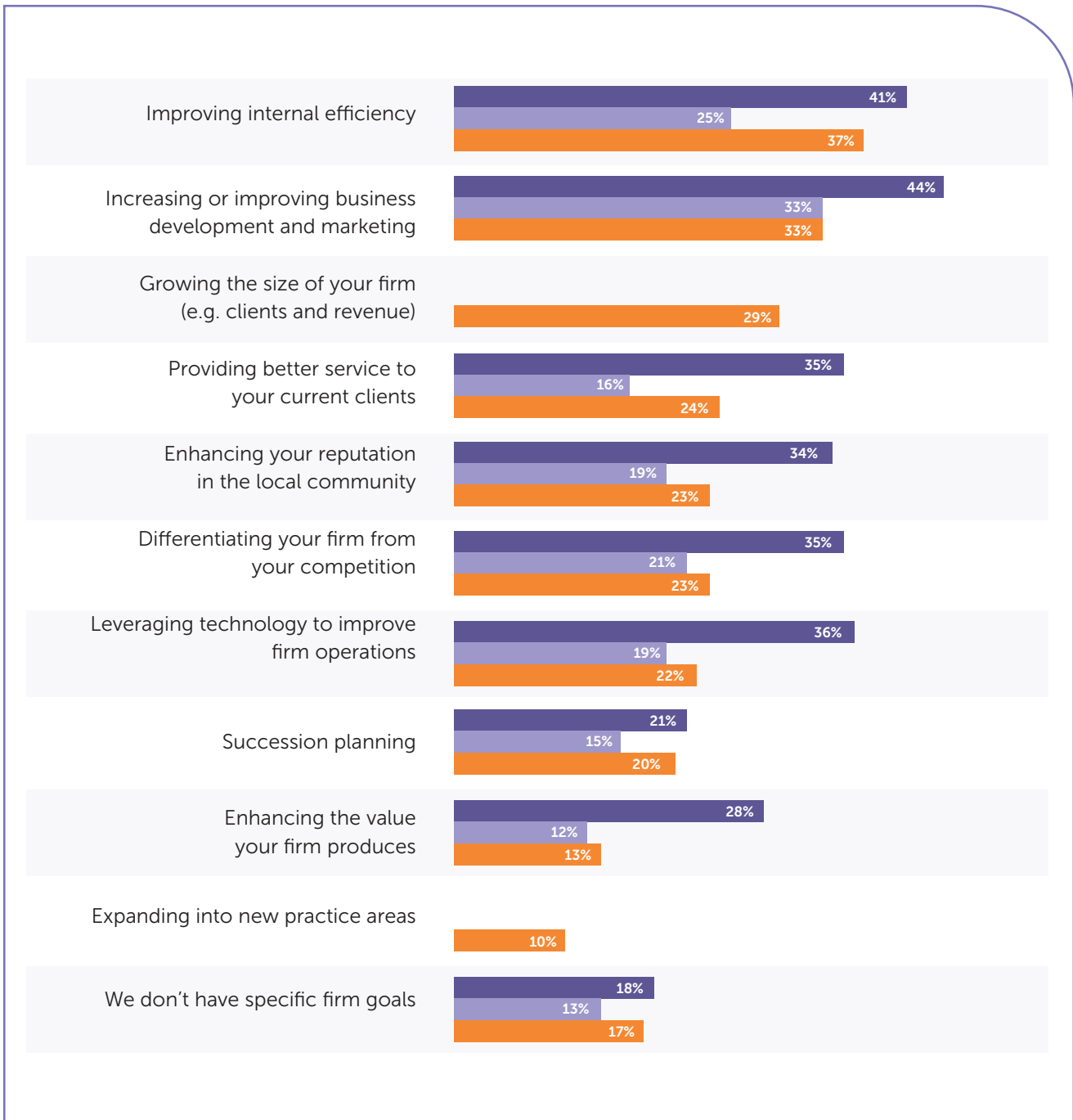
Greater use of technology might be the solution for both cutting costs and improving internal efficiency.

22%

That said, "only 22% of surveyed law firms indicated leveraging technology to improve firm operations as a business priority for 2022 and beyond."

Thomas Reuters, 2021

Law Firm Goals & Priorities



Thomson Reuters' 2021 State of U.S. Small Law Firms Report, 2021

2018 n=300 2020 n=403 2021 n=408

Why Early Case Assessment Will Become Increasingly More Important

Without a doubt, early phases of eDiscovery are among the most crucial ones. Early Case Assessment (ECA) involves the process of collecting, reviewing, and analyzing data early on in a legal matter.

With an efficient ECA process, you are able to sift through the large volumes of data and identify what's relevant for your case before committing to hosting a whole dataset, which comes with increased associated costs.

Essentially, the ECA approach solves three needs:

- ✓ 1. Estimating the scope (i.e., duration and cost) of the eDiscovery effort
- ✓ 2. Assessing case facts to evaluate risk and settlement value
- ✓ 3. Preparing for meet & confer conferences

Considering the ever-increasing volume of data that is being generated by organizations every day, law firms - now more than ever - have to deliver great results within short timelines and with less costs for their clients to be able to stay competitive. This, essentially, all boils down to significantly reducing the data they collect and review by efficiently applying Early Case Assessment techniques.

That said, besides handling documentary and electronic evidence, ECA also provides a fact-finding opportunity, as this process usually involves interviews with custodians and witnesses.

Benefits of insourcing the Early Case Assessment phase of eDiscovery

Some clear benefits to insourcing all or part of the early case assessment phase of eDiscovery include:

1. Cost savings for the firms and the clients:

In the upcoming year, firms can expect a higher level of scrutiny from their clients to justify their spending. By keeping all or part of their eDiscovery in-house allows them to provide their clients with some relief from third-party charges, even while profitably capturing a portion of those billings for themselves.

Early case assessment also saves time and money by making Electronically Stored Information (ESI) searchable, so litigation teams can start reshaping the traditional EDRM workflow almost from day one, gaining dramatic efficiencies further downstream.

2. Data Risk Management

Keeping the majority of the data in the clients' domain rather than duplicating and transferring it into a third party facility, dramatically reduces the risk of data hacking and data loss. By leveraging in-place search within the clients' premise and transferring a fraction of the data to the firm's eDiscovery platform, reduces dramatically both the risk and the cost of review.

Firms with advanced in-place EDA and ECA programs gain on two fronts:

- Taking advantage of the best machine-learning capabilities & predictive coding to reduce data sets in eDiscovery
- Maintaining control of client data and the ability to impose their own standards for consistency, transparency and repeatability.

3. Faster and Better Litigation Strategy:

In addition to showing cost savings to clients and more aggressively managing risk, keeping early-stage eDiscovery in-house allows law firms to develop more insightful litigation strategy, often earlier in the process. The more information a law firm has regarding the risk associated with litigation, the more they can help their clients make the best decision about how to proceed.

Advising clients whether to settle or keep moving forward is simpler when firms can better calculate projected costs and potential risks involved with litigation earlier in the eDiscovery process. By leveraging new available technology for Early Case Assessment and Early Data Assessment, Litigation Firms would gain the competitive advantage necessary to be prepared for the challenges ahead in 2023 and beyond.

Why law firms should consider using ECA tools

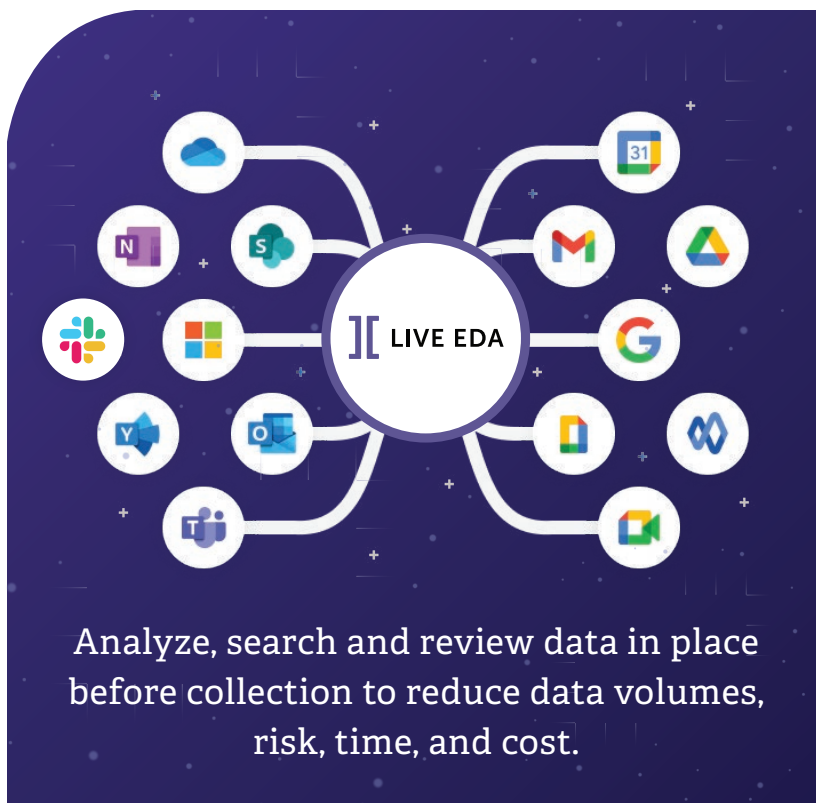
Early Case Assessment software provides you with an analysis framework and a platform to be able to understand your data set, hence, allowing you to go through available information and create a strategy for the case earlier on in the process.

Among the key features you should look for in an ECA tool are:

- In-place searching capabilities;
- Detailed reporting;
- Data culling & visual data navigation;
- Custodian management and analysis.

In-place search and analysis features, in particular, help firms front-load the eDiscovery process with advanced analytics so they can better analyze for their clients what is likely to be the lowest-cost option for dealing with their cases.

Being able to conduct early case assessment by leveraging in-place search and analysis, will allow firms to assess their clients' exposure quickly, show significant savings from third-party costs and better shape litigation strategy, all of which would add value to the client relationship, helping cement the client/firm bond.



One of such in-place search and analysis tools is Live EDA - a proven technology that allows you to drive down eDiscovery costs and risks while gaining valuable insights before you even collect data. More so, it also enables you to add custodians and data sources on the fly as well as to automatically uncover the risks in your client's dataset when it comes to sensitive information.

To get more insights into the capabilities of Live EDA, read the success story of a litigation firm which took full advantage of Live EDA for Early Data and Case Assessments.

Overall, by using early case assessment tools, litigation firms will have significantly greater ability in understanding how much data is involved upfront for their clients' cases and very quickly understand any potential exposure in the initial data set. From there, some firms with the latest technologies in place have been able to speed review by 60 to 90 percent.

Firms will see a positive impact further down the eDiscovery process during review, where more than 70% of document production costs are normally spent. The more insights a Firm gains with early data and case assessment tools, the better the case strategy is likely to be, and the less money and time it will need to spend on getting to that ideal strategy.

In conclusion

As previously mentioned, we expect an increased pressure on law firms in 2023 to produce faster and better litigation evaluation and litigation strategy while decreasing the extra cost and fees that they had been able to pass along to the clients until recently.

Considering tools that streamline and reduce the time and costs for eDiscovery can be game changers to stay competitive in 2023 and beyond.

]] IPRO | LIVE EDA

Learn more about IPRO's Live EDA solution that helps organizations reduce data volumes, risk, time, and eDiscovery costs

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