Legal Data Intelligence

Third-Party Subpoenas

A court order requiring a person or organization not involved in a lawsuit to produce documents, testify, or provide evidence relevant to the lawsuit.

INITIATE

Scope Project
- Acknowledge and circulate to stakeholders
- Validate request against jurisdictional requirements
- Negotiate scope and deadline
- Determine review methodology (e.g., linear human review vs. technology-assisted review or TAR)
- Develop a timeline and determine if extension is necessary

Notes

The Federal Rules of Civil Procedure (FRCP) and state equivalents in the U.S. protect Third Parties from undue burden when responding to subpoenas. Scope must be negotiated by limiting the number of custodians, data sources, or by date to minimize burden.

Identify Data
- Conduct interviews with relevant custodians
- Define data sources, custodians, and specific criteria

How Technology Can Assist
- Quickly identifies sources and locations of potentially relevant data when using a well-integrated and up-to-date knowledge management or information governance system
- Enables search and analysis of data in place to avoid time-consuming and burdensome collection and hosting

Collect Data

Gather data from identified sources as defined and restricted by the negotiated scope

How Technology Can Assist
- Enables search and analysis of data in place prior to formal collection
- Collects data in a forensically sound manner that preserves system and application metadata, as well as folder and file paths, per process requirements

Process Data

Process collected data and extract its metadata so it can be loaded into review platforms for analysis

How Technology Can Assist
- Quickly manages large data volumes
- Applies standard processing configurations (including deduplication) to reduce the total volume for review
- Enables email threading and similar tools that can help prioritize review as well as reduce the total number of documents for review
- Eliminates manual workflows
- Reduces human error

Develop Review Protocol
- Draft review protocol, process, and staff review based on data volume and deadlines
- Train the review team on the application of the protocol and any key issues of concern or other issues to be flagged (if the review is to be conducted in a linear manner by human reviewers)
- Train the tool with sufficient samples using subject matter experts to determine responsiveness (if the review is to be conducted via technology-assisted review or TAR)

Notes
- TAR training will likely require a few iterations until the results meet the agreed-upon level of confidence.
- This step should happen in parallel with the Collect Data and Process Data steps.

INVESTIGATE

Search

Develop search criteria to identify responsive data in consultation with the party serving the subpoena to ensure buy-in

How Technology Can Assist

Enables rapid testing and iteration of search terms and queries so that the most relevant data can be identified while avoiding bringing irrelevant material into the review queue

Evaluate Data

Review search results and further cull and review data

How Technology Can Assist
- Enables comparison of coding treatment across duplicate, near-duplicate, and subject matter categories
- Facilitates evaluation of reviewer performance and accuracy
- Enables review to ensure consistency of coding (including privilege status) across reviewers

Analyze Data

Examine data to identify relevant information, patterns, and insights not apparent when documents are reviewed individually

How Technology Can Assist

Provides analytical tools that can expose date gaps in collections, missing email or messaging correspondence, and other modes of communication

Apply Strategic Decision-Making

Determine the data that will be produced

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)

Notes

Quality control generally involves case team members reviewing sample sets or specific collections of interest to confirm that the coding has been applied correctly.

Generate Output

Submit the documents coded as responsive and not-privileged for production in the agreed-upon format

How Technology Can Assist

Programmatically creates the production set defined by the case team in volumes of manageable size

Produce

Deliver required output

How Technology Can Assist
- Securely transfers large amounts of data subject to complex encryption
- Creates output in usable, secure forms for all parties