

---

## The Top 7 Tips to Undertaking a Successful Document Review

By Pradeep Victor

---

One of the greater costs associated with any litigation is the document review portion. Indeed, some studies have shown that document review can sometimes tally more than 70% of a company's e-discovery spend. By utilizing an experienced, processed-based vendor for Managed Review in lieu of law firm associates and staff attorneys, law firms and corporate legal departments can reduce those document review costs significantly. However, not all vendors are created equal. Here are some practical steps you can take in order to minimize any hiccups when utilizing a vendor for Managed Document Review services, and 7 tips to keep in mind in order to successfully navigate and manage a vendor-based Managed Document Review.

### **1. Consolidate the Review if Multiple Adversaries Are Involved**

One of the major cost drivers on a document review is re-reviewing the same data set in order to produce to different entities – e.g., sometimes a regulator will have a broader subpoena than a negotiated discovery request from an adversary. It will prove more cost-effective in the long run to spend more time up front coordinating a comprehensive review approach to satisfy all parties with minimal amounts of re-review. This will require coordinating multiple outside counsel with the document review team such that multiple document requests are coded with a single review, by simply including additional options in the coding panels.

### **2. Minimize Privilege Where Possible**

Privilege in a document review may unnecessarily drive costs. Reviewers are often told to be broad in their tagging of potentially privileged documents during First Level Review (FLR). However, because of the large volume of potential documents, if you take too broad an approach to privilege, the Second Level Review (SLR) can often be inundated with false-positive privilege hits. Because counsel will invariably have to produce a defensible privilege log, overcautious calls will make this a difficult and time-consuming process. At the same time, an overly narrow approach to privilege will slow down the review team by requiring fine-line decisions which need confirmation, even with an experienced team.

Better to negotiate a specific privilege log approach with opposing counsel up front. For example, in lieu of providing a detailed (time-consuming and expensive) privilege log, perhaps negotiate a broader category-based privilege log where the parties agree to simply ID the number of documents tagged along the various privilege categories (attorney client, attorney work product, joint defense or other special privileges). Negotiation of this type of categorical privilege works best when the adversary is of equal size and likely to encounter similar privilege-related cost pressures.

### **3. Minimize the Review of Unnecessary Documents**

Companies generate a large daily volume of business documents which have limited value or applicability to the issues in the typical litigation. Often these documents end up in the data set when search term filters are applied because the terms are unavoidably broad. The more you are aware of your company's propensity to generate newsletters, trade confirmations and system maintenance reports, the more you can identify unimportant data early. There are plenty of good software tools (e.g., OmniVere Direct) that allows one to review the data set ahead of time to remove these unnecessary documents prior to the start of a document review. Taking an active or preventative approach by isolating these documents prior to the start of the review can help re-organize the data and minimize e-discovery spend.

#### **4. Minimize the Review of Unnecessary Custodians**

Typically, the time pressures and deadlines involved in a review require the review to quickly proceed on the basis of whichever documents are available. However, the more time spent up front determining which custodians should actually be reviewed - and to what extent - can both speed up the review and minimize costs. Not all custodians are likely to have the same type of responsive or privileged data. Group the custodians by importance and review them accordingly. The more a review team is able to singularly focus their attention, the faster and more efficiently they will perform.

#### **5. The Coding Protocol is THE Roadmap for the Review Team**

The smoothest document reviews have detailed written guidance (in the form of a coding protocol) which allows the review team to ID key personnel, issues, concepts, hot documents and coding challenges early in the process. Don't be too general, review teams are quite adept at understanding the specific nature of cases. A good coding protocol focuses the review team on the issues they are to review for with minimal (if any) ancillary information. Always ask yourself whether the data you want to put into the coding protocol will help the review team code for the issues you're asking them to look for.

#### **6. Plan for Redactions Sooner than Later**

If you think there may be redactions in your review project, remember to plan for them both in terms of time and cost. Redactions require a separate, pre-planned workflow which can easily be instituted if implemented early in the case. Pushing redactions towards the end of the review may place undue time pressures on any completion deadlines resulting in forced inefficiencies and increased costs. Simply raising the possibility of redactions to your vendor as early as possible will allow them to plan for, and institute, cost-efficient workflows that will allow you to meet your deadlines.

#### **7. Law Firm Oversight is Critical**

The document review process works best when there is adequate and continual oversight by the client and/or their law firm. The more engaged outside counsel is (responding to questions and providing feedback), the more consistent the review team's calls are likely to be which then leads to less re-review ultimately reducing e-discovery spend.

Further, no coding protocol stays static during a review. During a review, new information and documents are found that alter or tweak the direction of the review. The consistently engaged client is more quickly aware of these potential case changes and can more quickly provide advice and recommendations allowing for more consistent coding, which of course reduces re-review costs. As well, regular communication with the review team (either by phone call, email or within the review platform) is immensely helpful to the review team.

### **Conclusion**

Document review providers can be very adept at performing highly complex reviews. The most seamless and cost-effective reviews are those that following some basic, time and case tested guidelines and best practices.

OmniVere is a leader in pioneering the technology and workflows surrounding review optimization. Our experience in managed reviews are aimed at reducing your costs while ensuring defensibility and quality. Contact us today to find out more.

The information in this article should not be construed as legal advice or legal opinion on specific facts and should not be considered representative of the views of its authors, its sponsors, and/or OmniVere. This article is not intended as a definitive statement on the subject addressed. Rather, it is intended to serve as a

tool providing practical advice and references for the busy in-house practitioner and other readers.