

**TECH BUYS** A look at who's buying Client Relationship Management software....p. 27  
**C-LEVEL INTERVIEW** Fox Rothschild's first CMO says age is his secret weapon....p. 28  
**TECHNOLOGY** Firm Web sites are still oh, so generic — here's why....p. 30

# Operations

PLANNING & EXECUTION

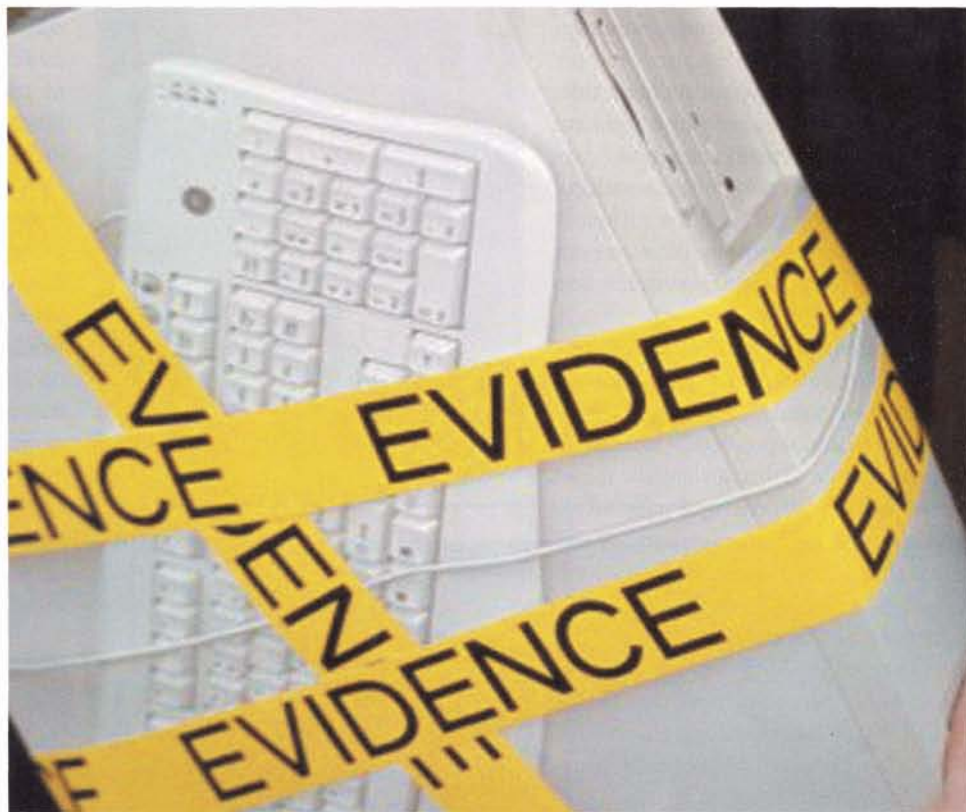
## WATCH YOUR WIKI

Wikipedia has a lot to say about everything ... including law firms. In a test we found that, on average, a link to the online encyclopedia was the fifth result of a Google search for the Am Law 100. That means potential clients, recruits, and yes,

journalists may form a first impression of law firms from material that's not under their control. Large companies are regularly told that they can't have editorial control over their entry, says Wikipedia spokesperson Mark Pellegrini.

That would undermine Wikipedia's goal, which is to allow the public to freely edit its contents. While Pellegrini concedes that firms could delete unfavorable text, he cautions the tactic could turn into an editing arms race. For now, keeping on top of what's there, and editing sparingly, may be the best bet.

— James Erik Abels



## Data Discovery Department?

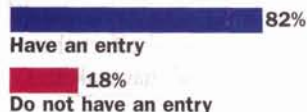
Both law firms and their corporate clients are staffing up.

By Ari Kaplan

With the buzz surrounding electronic data discovery only continuing to grow louder, law firms and their corporate clients are being confronted with an important operational decision — and there may be some tension. More corporate counsel are starting to take control of the e-discovery process, all while more law firms are continuing to staff up in this area. Consider that in the first *Law Firm Inc.* COO survey, top executives at the Am Law 200 reported that a director of litigation support was the position most commonly added to the executive ranks within the last 12 months.

This shift in who's managing discovery is now impacting the law firm business model concerning litigation preparation. From temporary hires for document review, to managing data processing, law firms have always played an integral role in this process. "The individual law firms around the U.S. are beginning to acquire their own comfort level for e-discovery, but are then working out compromises with clients that balance the ability that corporations have in-house," says Thomas Allman, senior counsel at Mayer, Brown, Rowe & Maw in Chicago and former general counsel for BASF Corp.

## NUMBER OF AM LAW 100 FIRMS WITH A WIKIPEDIA ENTRY



It's an important balance because there's a lot of money on the table. In 2005, some \$1.3 billion was spent on e-discovery, and the market was expected to grow by 37 percent to \$1.8 billion in 2006, according to the most recent Socha-Gelbmann Electronic Discovery Survey Report. It's precisely such expenditures that are a significant motivating factor for the internal administration of the process.

"The minute you need data more than once, it becomes cost-prohibitive to have anyone but the company manage it," says Laura Kibbe, senior corporate counsel and an e-discovery specialist at Pfizer. "[Discovery] is not paper anymore and if you are not in charge of mission critical systems, you will screw it up."

It's for these reasons that Pfizer manages the collection and processing of documents, as well as the initial review for responsiveness and privilege. The company's outside counsel then reviews the subset of responsive, non-privileged material for submission to the opposing party. Pfizer handles all of the logistical production activities in-house.

That's precisely the approach that appears to be taking hold in much of corporate America. "Since the litigant knows his data better, having created and stored it, he is in the best position to oversee the 'first cull,'" says James Wright, director of e-discovery for Halliburton Energy Services Group in Houston. Wright is a co-founder of The Corporate E-Discovery Forum, which was created in May of 2006. Executives from the 85 member companies use the confidential forum to discuss strategies and emerging issues involving e-discovery.

Companies such as Halliburton are streamlining the management of information across multiple matters to save costs on duplicative or extraneous legal review. They are also planning or actively working on the development of enterprise records management systems to facilitate the e-discovery process.

So what does this mean for law firms? After all, contract attorneys can provide a significant revenue stream. Last fall, *The American Lawyer* reported that in a survey



“  
Though we earn less  
billable hours on  
an e-discovery  
project, we establish  
greater rapport  
with a client.  
”

— Robert Brownstone,  
Fenwick & West

of the 200 largest law firms, nearly one-third (31 percent), billed out their contract attorneys at more than a 200 percent markup ("Temporary Solution," *The American Lawyer*, Sept. 2006). To illustrate, the author provided an example that at an average markup of 100 percent, 100 temporary lawyers hired for four months could generate a profit of some \$5 million.

While law firms are doing less of the data maintenance in some cases, they are still an essential part of the equation. "We see corporate management of electronic discovery as a good development because when companies undertake to manage e-discovery, we can review their procedures in litigation, and our defensive job is easier,"

says Adam Landa, co-chair of the national e-retention and litigation preparedness practice group at Greenberg Traurig. He also proposes that companies consider the use of outside lawyers for the national coordination of discovery responses because the representations to the court about a company's systems and data must remain consistent across every jurisdiction.

From a big picture perspective, Barry Murphy, a senior analyst for Boston-based Forrester Research says businesses recognize that a law firm has to be a partner and strategic advisor in litigation, but they are trying to build control. "Fixed prices and bidding are gaining momentum," he says. Corporations will start to look at bids on e-discovery projects with more of an eye toward cost containment, requiring firms, especially those with experience in electronic data management, to move toward a fixed price model, adds Murphy.

Having the expertise in-house to address cost containment and related issues is one area that is already starting to pay off. "We are seeing renewed interest by our clients in seeking our advice on the law and on the technology to make sure that they have a handle on their retention protocols and policies," says Robert Brownstone, law and technology director for Mountain View, Calif.-based Fenwick & West. He says that his firm invested more than \$1 million to strengthen its e-discovery expertise and technology over five years, and has posted seven-figure revenues from its electronic information management group in each of the past two years.

Building on its success, his group is providing a full range of services, including advising on overall document management approaches, computer forensics, information-security policies, and best practices in handling metadata. Brownstone notes that the great e-discovery/retention conundrum is that saving too much can lead to unnecessary costs and risks, but saving too little may not be enough to satisfy your statutory and litigation-hold requirements.

Of course, there are some who remain on the sidelines. Despite the fact that a number of large companies have taken the

