

E-Discovery Manager: A Lucrative New Career Niche

Jan Hill

Paralegals who possess a dual background in law and technology are finding success in a new career niche: e-discovery. The electronic discovery market is growing by leaps and bounds, by some estimates more than 20 percent per year. Armies of attorneys are rapidly being replaced by software that is not only faster, but in many cases more accurate. "The emergence of e-discovery is causing attorneys to change the way they practice law, affecting the way paralegals do their jobs, and opening up a whole new practice area: e-discovery management," said Chere Estrin, author and paralegal educator.

Discovery and E-Discovery: What's the Difference?

Prior to the computer age, discovery involved exchanging paper. Legal professionals who have been around for more than a few years no doubt remember endless hours at the copy machine—duplicating medical records, corporate data, correspondence and other documents responsive to a discovery request. Now anything that is considered "electronic media" may be discoverable, and evidence that used to exist only on paper now resides on computer systems.

Litigation Support Salaries

Analyst Median Base Salary: \$67,500

Specialist Median Base Salary: \$91,000

Project Manager Median Base Salary: \$115,000

Regional Coordinator Median Base Salary: \$135,000

National Manager Median Base Salary: \$165,000

Firmwide Director Median Base Salary: \$267,000

Source: The Cowen Group's 2010 Salary Study



According to Estrin, this is only the tip of the iceberg. "E-discovery is not a trend. It has become an area of practice, a specialty in and of itself. It will only get bigger. I expect that eventually we will stop calling the arena 'e-discovery' and just call it discovery," Estrin said.

E-discovery management is such a new area of law that there are no standardized titles to represent exactly what the position may entail. "You have the following: e-discovery manager, e-discovery project manager, e-discovery production supervisor, e-discovery project coordinator, e-discovery director, e-discovery case manager and more," said Estrin. "Then there's e-discovery manager of an entire department who generally is an attorney. Add to that any title that a firm or vendor may make up as they go along. What may be an e-discovery manager job description in one firm is a litigation support analyst in another."

Because of the need to capture, organize and process electronic data, litigation is undergoing a radical change. "You need to

remember that there are approximately 24 billion e-mails sent every day," said Estrin. "All of those e-mails are considered e-discovery. Add to that the number of voice mails, tweets, blogs, websites, podcasts, Facebook posts and anything else considered to be

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electronic media, and you have an infinite number of possible exhibits and evidence materials. This is no longer a legal world wherein the plaintiff and defendant exchange boxes full to the brim with 2,000 documents per box and call it a day."

A Lucrative Niche for Paralegals

Typically, paralegals don't have unlimited opportunity to grow their income. Other than entry-level, mid-level and senior-level positions, a paralegal usually has to acquire a new title for upward mobility. According

to Estrin, a position in e-discovery can allow a paralegal to leverage her skills and abilities and make the move upward. "This is one of the few positions where paralegals-turned-e-discovery managers can make six figures," she said. "Salaries are also related to region

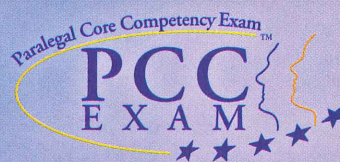
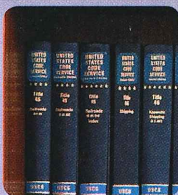
of the country, and it depends upon what type of e-discovery manager you are talking about: project manager, manager of a department, case manager. No matter what the position, however, it generally will pay much higher than the

average litigation paralegal position pays."

According to David Cowen, president of The Cowen Group, a search firm specializing in staffing and recruiting for e-discovery, litigation support and legal technology, "Forward-thinking companies need to start considering how they are going to attract and retain these professionals when the competition increases."

The Cowen Group's Fifth Annual Salary Study, which surveyed more than 400 litigation support and e-discovery professionals at 100 major law firms, found that professional

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salaries held steady in 2009, even as the nation struggled to rebound from recession (see sidebar for specific litigation support and e-discovery salary information). The Cowen Group has been tracking workload, hiring and budget trends for e-discovery and litigation support departments over the past two years. In May 2011, the firm released the results of its Q1 survey, which indicated that legal technology budgets continue to grow: 35% of corporations and 43% of law firms anticipated budgets increasing in the next three months. The survey also held encouraging news for e-discovery paralegals: in the previous three months, interest in the convergence of paralegal and litigation support responsibilities increased at 55% of law firms, and the demand for litigation support/e-discovery talent continued to rise, with 31% of corporations and 41% of law firms anticipating adding staff.

How to Break into E-Discovery*

- Take as many CLE courses, webinars and seminars as you can.
- Find a mentor.
- Get cross-trained in your firm.
- Volunteer to help out the e-discovery experts in your firm.
- Include any e-discovery experience you obtain on your resume or CV.
- Network with the right people, and let them know you have your sights set on e-discovery.
- Don't overlook the vendors for help—they are not the enemy. They are smart, talented people with similar backgrounds to yours, and they want your account.
- Make social media work for you: Join LinkedIn groups for e-discovery and litigation support, check out the litigation support forum on Yahoo, and get your name out there by "liking" and posting to Facebook and following some of the gurus on Twitter.

**Tips from Chere Estrin*

The E-Discovery Role

What exactly does an e-discovery manager do? "Generally speaking, an e-discovery manager in a law firm is someone who manages the e-discovery processes, generally on the EDRM (Electronic Discovery Reference Model), including early case assessment, analysis, identification, collection and processing," said Estrin. "This person will oversee the technical and substantive end of the e-discovery process on one case or an entire department, depending on the scope of responsibilities and what the title represents in any one organization."

Toni Farrar, an energy litigation paralegal for Ryan Whaley Coldiron Shandy PLLC in Oklahoma City, Oklahoma, spends about 25 percent of her time in e-discovery management. "In my role as a paralegal in a mid-size law firm (19 attorneys), I wear several hats during the e-discovery process," she said. According to Farrar, an e-discovery manager might oversee the process of selecting and partnering with skilled vendors in the collection of electronically stored information (ESI); track the custodians, amount of data being collected and date of collection; communicate with vendors regarding the processing of the data; supervise and monitor the final production; and verify that the work has been performed satisfactorily.

If this sounds like a lot of work, Farrar said it is, but it suits her. "As a Type A personality, I thrive on the details of crossing all the T's and dotting all the I's – in other words, I'm an organization systems freak," said Farrar. "I guess I like rules, and in technology there are rules to be followed to make everything work together properly."

E-Discovery Education

So what kind of education does a paralegal need to make the leap into e-discovery management? Estrin is a proponent of a combination of education and work experience. "I prefer to see a solid background of courses, seminars and webinars in e-discovery, plus at least three years of hands-on case management experience before a paralegal can qualify for a managerial position," she said. "I am also in favor of certification. Because e-discovery is only minimally covered or not taught at all in law and paralegal schools, certifica-

tion is an excellent way to weed out those who truly understand and have the core competencies from those who only think they do."

Continuing education is also extremely important. "This is one field of law that changes so rapidly, it is difficult to keep up," said Estrin. "Remember, e-discovery is a combination of solid technology skills combined with substantive knowledge. There is no other arena like it in the legal field."

Making the Move into E-Discovery

While IT professionals may be suited for the technological side of e-discovery, they often lack the legal background necessary to do the job. Paralegals can often make the transition into e-discovery positions, a move that makes complete sense, Estrin said. "Paralegals are excellent for the position because, not only do they have the substantive background to understand the 'why' of e-discovery, many have the technical skills as well. Furthermore, paralegals have hands-on experience with e-discovery which makes them excellent candidates, sometimes better than attorneys who are viewing it from 30,000 feet whereas the paralegal has been in the trenches," she said.

Most areas of law need e-discovery experts, particularly those that involve deep-pocket litigation, regulatory investigations and ancillary areas such as risk management and records management. Such areas include product liability, toxic tort, pharmaceutical, insurance, employment and bio-chemical.

Jackie Schad is a corporate paralegal at Black Hills Corporation, a diversified energy company with electric and gas utility operations in South Dakota, Wyoming, Nebraska, Iowa, Colorado and Kansas. As a senior paralegal in the Rapid City, South Dakota office, Schad's role is to support the company's legal department and its team of ten attorneys. Her work encompasses all aspects of corporate law, with emphasis in litigation, employment, contracts and e-discovery.

"As the only company paralegal involved in litigation, any e-discovery issues that arise fall into my area of responsibility, along with our records management department," said Schad.

"We work with outside counsel in complex litigation matters, so my role in any e-discovery project is to work with our records department in searching, gathering and reviewing electronically-stored information on our company systems and then provide the relevant data to outside counsel."

Although Schad did not actively seek out an e-discovery job, the phenomenal growth of electronic communications and the challenges it presented made e-discovery management a skill she needed to learn—quickly. "With the rapid rise of electronic data and communications, there is an urgent need to learn how to properly and efficiently manage the discovery of this kind of information," she said.

Why shift into a niche like e-discovery? Paralegal mentor, author, speaker and past president of the National Association of Legal Assistants Vicki Voisin, ACP, who has been a paralegal for more than 20 years, said it's about duty. "Attorneys and paralegals owe clients the duty of competence. This includes the duty to remain informed about industry trends, particularly complicated trends such as e-discovery management," she said. See the sidebar for Voisin's tips to ease the transition into a new career niche.

What it Takes to Manage Electronic Data

Schad said she appreciates the challenges presented by electronic data. "The nature of digital data is much more fascinating than paper," she said. "It can be electronically searched with ease, and it is difficult, if not impossible, to completely destroy. While paper evidence can be lost or destroyed, electronic evidence remains somewhere forever—you just need to know how to capture it."

According to Schad, to make the leap to e-discovery, a paralegal needs IT aptitude and an ability to understand technical jargon and "translate IT speak to legal speak." Paralegals also need to understand backup systems, metadata (preservation and production), the difference between structured and unstructured data, databases, Web 2.0 technologies, data collection formats and how to produce collected data in a reviewable format.

Some of the software programs that paralegals should be familiar with, according to Schad, include enterprise content management systems, project management tools (MS Project), litigation management systems (Summation and Concordance) and reporting tools such as SQL Reporting and Crystal Reports. "Paralegals working in e-discovery management need to develop technology skills, stay educated in technology advancements and how technology is used, personally and in the workplace, stay on top of evolving case law and participate in legal and technological professional organizations," she said.

For Farrar, patience is essential. "In the legal field you live by deadlines," she said. "But things don't always go as planned, so be prepared to go the extra mile and be a team player. Be detail-oriented, but still be able to see the big picture. Sometimes it's easy to get bogged down in the minutia and forget to look ahead to be prepared for your next turn in the road."

Where E-Discovery is Growing

Currently, the demand for e-discovery professionals is concentrated in metropolitan areas, in major and mid-size firms and in-house corporate legal departments like Black Hills Corporation in Rapid City, South Dakota, where Jackie Schad works.

According to Estrin, large firms in Washington D.C., Los Angeles, New York, Boston, Chicago, San Francisco, San Diego, Houston, Dallas, Miami, Phoenix and Richmond, Va., are all experiencing phenomenal growth. "We're also seeing growth in Japan, Canada, the United Kingdom and Taiwan in international e-discovery," said Estrin.

Although personal injury firms, family law, and trust and estate firms may not be experiencing e-discovery issues at this point, Estrin expects that this may change in the next few years. "Where else might an attorney find hidden assets of a husband or wife except to find them in e-discovery?" she asked.

Some firms that have e-discovery needs choose to outsource them. "There are many fine e-discovery vendors," said Estrin. "However, with or without vendors, a firm should be

How Paralegals Can Position Themselves for Growth*

- Become the "go-to" person in your organization.
- Be open, flexible and willing to take on new tasks.
- Don't wait for the job to be assigned to you; anticipate what must be done and do it.
- Attend all available continuing education programs to learn more about your new niche (or the one you want to get into).
- Toot your own horn – never be afraid to let your employer and colleagues know when you have learned something new.
- Remember, you can do everything, but you cannot do everything at the same time. Prioritize your commitments and goals then work on those that are most important to you.
- Learn to say no to activities and commitments that do not help you reach your goals.

**Tips from Vicki Voisin*

developing its own in-house e-discovery practice group. In the future, to not have an e-discovery point person in place would be the same as if a litigation firm didn't have a litigator and outsourced all of its litigation practice. Not going to happen."

In the next decade, e-discovery is predicted to grow exponentially. Paralegals flocking to this new field will find plenty of job opportunities, increasing avenues for advancement and salaries that reach well into the six figures for e-discovery management roles. □

Jan Hill is a certified paralegal for the Office of General Counsel of National American University, and also a freelance writer. She enjoys writing on legal topics as well as education and careers for newspapers, magazines, websites and on her personal writing blog, www.raisedwrite.com.