

SaaS-Based eDiscovery: Effective Practices and Lessons Learned

COLBY: So let us get started here. Thank you all for joining us. Today our panelists include Daniel Garrie. He is the General Counsel and managing partner at FSRDG. He is also managing partner at Alternative Resolution Centers and is an eDiscovery Special Master. Welcome, Daniel.

I would also like to welcome David Whitehead, the Director at Baker Robbins. David manages a variety of cases for large city and federal government offices starting to develop online delivery solutions that include media, security and artificial intelligence.

And I am Colby Dyess, Director of Product Management. I will play host and moderator for today's discussion. So, thank you all.

Let's get started. We have a pretty straightforward agenda. We want to talk a little bit about SaaS (software as a service)-based eDiscovery, its potential benefits and, of course, tips for evaluating SaaS and ensuring that you can be successful in using SaaS-based eDiscovery solutions. Now to really get ourselves started, we should probably get everyone on the same page because SaaS is relatively new and we think of SaaS as software as a service. One way to look at SaaS is to consider it as a way of providing applications, business applications and resources to a web or centralized location. This is very different from the way that services had been

provided over the past 15 years or so, where that model within a company might include an IT department that is delivering business applications or service to the users, or knowledge workers in that company. But more and more, things have been moving to a "cloud" or software as a service model where this centralized service provider allows many users to access the software business application on-demand and at scale over secure networks. So it turns out that many of us are really familiar with software as a service. And so today's discussion is about eDiscovery in the cloud.

DANIEL: I just wanted to add that one key thing is not only are businesses adopting it, but they're certainly migrating their core business functions, for example Google enterprise docs or Microsoft Office 365, forward to the cloud. It's more than just using a more discreet process. We're seeing them move massive, business critical and key pieces to the cloud. I think that's an important part when we're discussing cloud-based and software as a service as a whole. David, is there anything that you wanted to add to that?

DAVID: Well, yes. Certainly software as a service, strictly speaking, includes all of these end service applications. But there are the other portions such as lower-level services, database services, virtualized servers and other functions that can be capitalized and used in a more flexible way. It's not just the hosting of Word, but hosting

the record management component of it, where the documents are stored, or the indexing of those documents. That's also interesting and useful. I think that these things have a lot of variety, and that services will market well because, based on whatever is in, whatever your corporate culture is, your odds are likely you will be able to find a service that will fit with what you need either wholesale or pieces in time.

COLBY: So, it's interesting, because businesses have adopted more of those services, and they take each of the individual pieces, as David was just mentioning. You don't have to take everything, but you can pick and choose which would be the right services for your business. I think it really plays out very well in eDiscovery. You can take a look at the major pieces for eDiscovery, just based on EDRM. I think that all of these pieces fit in the cloud. There's a role for them and a distinct capability that is provided in the cloud for each of these.

So, for information management, you are talking about how clients are moving their data out into the cloud. This presents a new challenge for them to manage their data out in the cloud.

DANIEL: I think that's a great point. Not only does it present a challenge for managing the data, but also for how you effectively drive, access and implement eDiscovery when it's operating in a cloud environment. eDiscovery itself can

also be done in the cloud, or different pieces of it can be done in the cloud, based on a multitude of underlying drivers. David, do you have any points to throw in around that?

DAVID: Sure. Somehow I always have a point throw in.

DANIEL: It's always valuable.

DAVID: Hopefully. The thing that's interesting to me is taking that to a logical extension. Let's say that you have your data stored in the cloud, and across three different services. And now you're going to perform eDiscovery via cloud service. How are those pieces going to interact? I think there are probably advantages and disadvantages. And, it speaks to me that there is so much there. It's exciting, it's new and it really warrants attention to trying things in detail-oriented approaches, where you really know exactly what you're working with and know how those things interact. But there is constant evolution, it seems. So you're going to definitely be able to get information management in there straight through to presentation. The trick is getting them to actually coordinate.

DANIEL: I think that is a great and very compelling point for everybody to be mindful of. As these technologies become more and more interesting and widely adopted, you need to make sure that it can be delivered and integrated in a uniform fashion. That is certainly something that should be kept in

the forefront of your mind when evaluating what is appropriate for your business.

DAVID: And clients don't have to consider adopting all parts of eDiscovery in the cloud, or in fact all business services in the cloud, right? So, there may be almost a hybrid approach here.

DANIEL: I tell everybody a very firm philosophy should be that you should only adopt and integrate what makes sense for your business both operationally and functionally. The companies that are operating globally have data privacy concerns and other things that impact how eDiscovery plays-out versus the company that is based in one or two states, versus companies that are all over the country. And it's balancing those needs and the functional needs of a specific legal matter, and applying those things in an effective fashion that will deliver value to your business specifically.

DAVID: I think that's exactly right. There are business cases that we have to fulfill here. It's all towards what is furthering the success of the business. If you don't have a compelling case, then you need to consider whether or not you should be doing it. But further, you're talking about hybrid solutions. You have hybrid, or simultaneous, solutions based on the scenario. You could have your day-to-day work be accessible using a standard local word processor, but your remote people, or certain offices, use the hosted version of

the SaaS version. And similarly, for eDiscovery, you can have a tool in-house that is in the cloud. It really needs to depend on what is the best way to get the job done in that particular case; knowing your scenarios; knowing what you go through, that you do things this way, this way, and this way.

In the first case, you do it internally. In the second case, you are going to do it using the cloud and in the third case, you could do a little of both.

COLBY: And it sounds like it could get really complicated. But it seems like there are people in an organization that would know what the business is doing.

DANIEL: I think there are things that go both ways, both from the in-house legal and also from a law firm perspective, knowing what your client's needs are and knowing what your in-house litigation support capabilities are, and figuring out the appropriate mix. Because at the end of the day, the whole point of eDiscovery is not to become the core point of the case, but rather allow you to just do discovery. You need to figure out the capabilities of your clients from the outside counsel, working as I work with frequently, and figuring out the appropriate mix and match that will deliver those needs in an effective fashion. This is really important because they certainly vary based on your internal litigation support capabilities.

DAVID: Right, and I've seen cases very clearly where they'll use one tool to collect and send it to a vendor, process with another tool, host it up in a third tool, review, and then produce using reviews in the third tool online in the cloud. And then that is produced to the local associates in a firm who review it in the local tool then do the final production. That's not a crazy workflow. So, how do you get all those pieces to flow together, to be seamless? It's just detail-oriented work. It's not the complexity that you mention. I think it is everyday complexity for a large firm or corporation.

DANIEL: Yeah, I think that's really important. I've worked with some really, really smart litigation and corporate people that totally realize the complexity of working with their client in that relationship. You have to be very cognizant of that because the cloud will also deliver true value for revealing or for lowering costs on storage or expediting the processing. It's balancing your clients' needs and your internal litigation support capabilities.

COLBY: Let's take a look at, generally speaking, some of the strengths and weaknesses of software as a service. We started to cover some of these. Cost savings, for instance. There is an example from an *INC.* article where a client was saving almost \$300,000 just by moving to a Software_as_a_Service based e-mail system. That's a tremendous

savings. I think there can be similar examples here in eDiscovery. The clients are certainly moving for cost, but there are other reasons that you have pointed out.

DANIEL: Yeah, I think one of the biggest strengths is the value proposition that the cloud is starting to become more and more reality which brings to light the whole idea of charging by the amount of data, which is becoming a more complicated algorithm. And it's shortly lowering the cost, and certainly the time. So when you can use Amazon-based cloud to do your processing, you're talking about going from one day to two hours. There are certainly strengths there, but I think there are some weaknesses that I often see play out as well, where law firms, or the client, or in-house, do not read over the terms and conditions. What ends up happening is that there are expectations, and the expectations somehow waylay or aren't met in the terms and conditions. You then end up in an unfortunate mess rather than out front, paying very close attention to the sort of fees and costs that underlie the services that are being delivered. And I think that's something that should be paid more attention to.

David: Without question. It's definitely something to add. I have a scenario where I deliver two terabytes of data for a case for processing and review. I get a quoted price per gig, and then it turns out that the per gig cost, unbeknownst to me, includes the blowout of all of the zips and all the

compressed files, as well as the subsequent indexing files. Well, not to discuss the right or the wrong of it, because it's strictly contractual, but I should have been very clear in the contract. And I should have read the contract to make sure that that's the case. And that can be quite a substantive difference. You can practically double or more than double your cost.

DANIEL: Yes, or triple. Double is being nice. I also see times where people think that it would be cheaper to use a dock review tool in the cloud. And sometimes, what gets lost in translation is they don't realize lawyers need to learn how to use it. And I mean that with all deference and respect to my peers. But anytime you require people to learn something new when you have a high-pressure situation with clients and expectations, it's important to make sure, whether you outsource review or whether you do it in-house, that there's an understanding and familiarity with which review tool you're using in the cloud, and that they know how to use it properly. Because a lot of tools have a lot of functional restraints and are very rich, but if you don't know how to use them, it kind of defeats the point.

DAVID: The main thing I would say in regards to considering software as a service is that there are differences from other scenarios. But the common themes are the basic business concepts. Know your contract. Know the

technology and have people trained in it. Know all your business cases. Know your playbook; all of those things that you do over time. We know this is what you have to do in business. Software as a service is exactly the same in that sense. There may be nuances beyond, but if you don't have the basics down, software as a service will probably amplify those lacks.

DAVID: Exactly. And one very key point that often gets lost is that having a playbook really empowers both law firms and in-house counsel to control how things flow. A law firm might work with 20 or 30 different players based on how it's structured. So being able to have a playbook so that your litigation support people, who are expected to be engaged in some fashion on most of your cases, have a way of knowing these are the fields that every vendor should be providing for production formats. Or, if a vendor is going to be providing it, do we want it as an **e-zero-one** image or do we want it as a tiff? There needs to be some consistency in standards so the vendors are under the right expectations. And also, there's some control processes inside so you can actually maximize the value savings the solution can give you. If you or your clients don't have a clear way of how to handle your eDiscovery you're leaving it to chance, and delaying the possibility of delivery, as well as the effectiveness of the savings that can be realized.

COLBY: Right. Now, one other point on the weaknesses, we mention increases of burden on WAN. I think that today this is certainly true. Look at the Kindle, for example. The Kindle has a modem built-in and 4G is coming out. It's going to completely change the dynamic of things, where I envision having vendors handing out wireless modems, and telling clients to upload to their secure cloud using this preconfigured VPN device. You just plug it into your system, log on wirelessly and securely given the credentials we provide you, and upload your terabytes of data. We will process it and it never touches your WAN, which in so many ways is a good thing in terms of compliance, segregation, and cost. And for the vendor or the SaaS provider, it's a throwaway service, unless you're on AT&T where there is a cap. That could hurt a little bit. I think that's going to be the way to go.

DANIEL: Over time, as 4G starts to become a more widely accepted standard, I certainly think that just the way in which data is being provided, vendors will be much more enabled to use Internet-based technologies and cloud-based solutions, because I do agree with you. And I'm starting to see it even now, somewhat, where they give you a card or a wireless preconfigured device. You push a couple of buttons and, because of the bandwidth, it's becoming much faster and

cheaper. It's certainly not as it was even six or nine months ago.

COLBY: Right. And you can charge it back to the client, in theory, if you are a firm.

DANIEL: Right. And it's trackable, traceable, and has the visibility. I think one very big strength that is often lost, and I'm remiss for not raising it earlier, is that all of a sudden most law firms and in-house counsel get more visibility into efficiency, effectiveness, and billing. And that's with any aspect of eDiscovery and the cloud. You're able to see how long and how much time is spent reviewing documents. COLBY: Let's focus on these benefits. For all the weaknesses that we just called out in SaaS, it sounds like a lot of it is about education and preparedness, just making sure that you realize what you're getting yourself into. But, clearly, businesses are moving to it. We're doing it with things like Kindle, for instance. So there must be some benefits. And I think we're starting to hit on those now, right? The visibility is one of those benefits.

DANIEL: That's a huge benefit. I think that it's more... I joke about this sometimes, with some of the in-house counsel that I went to college with, as well as law firms... But really, the billable hour isn't going up as much as your cost of getting the data into your system and then adjusting it because your client has so much of it. And so being able to

have that visibility and show the client that it's really their data. Just the fact that you have visibility you have the ability to provide much more detail and clarity, and also achieve much more efficiency as well as risk management, of course. David had some really good points as well that I've heard him mention in the past.

DAVID: If you have software and a local network, you can set up all the applications. Then you can have asset tracking and user auditing and go through logs and have someone who's reporting put together some really sophisticated insight. Some of the review tools, the BCA tools, have features built into them to provide some reports on usage to various degrees. But it seems to me that the fast tools that focus on this were needed because, by their nature, have a lot of auditing and tracking built in. That gave them an inherent advantage at being able to look at a review and be able to tell which people were productive and which were not, which types of documents we are having challenges with, which types of documents are duping the best. There is all of this insight because they're starting with certain requirements and because they're newer. You are getting all of this richness out of the gate. I think that's only going to increase over time, and I think that's really exciting. Also, there is a transparency between the law firm and the client. If I were a client, I

would insist on that sort of transparency if I knew it was available. And here it is.

DANIEL: I think another big benefit that we are realizing is that you also get to control the process. You only pay for what you need, versus buying terabytes of storage and building up these very costly and expensive platforms. I refer to it as a massive service agreement, where you know exactly what it is going to cost to process another terabyte of data or a couple of hundred gigs. It's on an as-needed basis. You don't have to hire more staff, more technology expertise; all of those costs are removed from the equation. And it's the fixed hot price that you can budget for more appropriately.

DAVID: But even if you don't want it to be fixed, if you're performing at level X and you want to increase your performance because you have a deadline looming, you can, in theory, provision more servers. Expand out your resources on the web, on-the-fly, on the cloud.

DANIEL: And I actively engage with clients to actually use it for that purpose, where things get accelerated in federal investigations or compliance or they want to get back to whatever the case may be. Even internally, in my organization, when things sometimes go hiccup, it's really a very big comfort to know I pay X number of dollars, and all of a sudden I can get it done like that.

COLBY: It's neat that you can contrast this against the way that eDiscovery works if you are trying to do it with some appliances or software in-house in your IT department. The flexibility just really isn't there in the same way.

DAVID: Right. To me, the ultimate sort of nirvana of it would be if you had seamlessness. You don't know that I have a local system with an eDiscovery or ECA tool installed, and that tool has a hosted version as well. I set some threshold that anything over 1 terabyte gets put to the cloud. But I can process knowing the limitations of my resources up to X amount. And it's seamless through this interface. So, whatever I have here I process, whatever I have there I process, I don't notice what happens. There are rules set up which manages it dynamically. I can get a report if I'm inclined.

DANIEL: Right. And I think Colby or David pointed out earlier that the issues with cloud computing can be addressed if it's properly contracted and people are educated about it. I can think of a very clean example from a recent experience. I was working with outside counsel on a matter and we were working with the cloud service and using a cloud-based solution. They didn't talk to the computing provider. What they didn't realize at the time was that when they were extracting data from the cloud, they were actually modifying the metadata. So, [laughing] I don't know how many people get involved in protracted or complex litigation, where people

aren't necessarily all friendly, but when the other side finds out that there is massive altering of the metadata, even if it clearly was unintentional and innocuous, it is going to be problematic. And I was, we were, brought in to help address those issues. When we went back to the cloud computing provider and went over the contract, they were following their contract. So the simple solution is that if you think about things ahead of time and make sure that it's included in your terms and conditions, you're addressing the problem, and it's not really a problem. It's when you forget to do it that it becomes a problem.

DAVID: I just signed on a house, and I looked at the contract and I said "okay." Then I sent it to my attorney who sent back six pages of revisions and clauses. That's why you have someone who's done it before. I think it pays to have people who are experienced in going through these services and understanding the differences between a SaaS-based solution or SaaS-integrated solution, and strictly local. You need the experts. You need the people who've done it before, because it's a new thing and it increases risks. If you don't have that experience you just increase your risk of being blindsided.

DANIEL: I tell my clients all the time they're lucky that I've already made a lot of these mistakes. But in all seriousness, it's very important because lawyers and the

partners, or even my peers that are general counsel or partners elsewhere, are not cloud-based technology experts. They don't have an active experience like David or myself in dealing with complicated sorts of solutions, so it's not exactly top of mind. Just like when you get a housing contract and you think it looks great. Until you send it to your real estate attorney and they respond, "Are you crazy?" So I think that it is very, very important to employ the appropriate people when you're looking to engage those services.

DAVID: He was nicer to me than that a little bit. But...

[Laughing]

COLBY: So you are really pointing to taking advantage of using the right people for whatever phase of eDiscovery you want to tackle. You put the right people and the right technology in place, rather than having to bring everybody up to speed on a brand-new technology.

DAVID: Absolutely. I'm excited when I get to work with my peers here, who know so much more than me, and see them do assessments for clients of what technology can bring in to the mix for them. You see them architecting a nonlinear solution, not just "buy this, do this," They look at how you deal with your large cases and your small cases. They look at how you deal with corporate clients or with cases where you have codefendants, co-counsels, and multiple law firms involved. They architect these solutions and then talk about the details

at the negotiation level, of how the agreements work in terms of service level, turnarounds, formats, and the processes for transferring these things and explain the timeline and risks. They architect this, in a sense, as a mosaic, which is really quite elegant and impressive. It's always neat to see people who know what they're doing go and put stuff like that together.

COLBY: I think that's a good example of how we were putting together the plan for helping folks evaluate the SaaS. In order to understand what you want to bring on, you've got to understand your needs. I thought that was a perfect example.

DANIEL: To build on that, I just participated in dealing with a massive mortgage-based litigation, with a hundred plus law firms all involved. I wasn't brought in initially, I was brought in after. I'm never brought in the beginning, unfortunately, but I'm brought in to clean up the mess. Not only does it cost more, and people like you less, but, more importantly, the real value proposition is that once you do it right the first time, or the second time, or whenever that is, you really stand to deliver higher quality service to your client—because lawyers, your clients are the people that are paying you, whether it's in-house budget or whether it's your outside clients, and it provides a better service and experience for all those involved. And I think that is a very important thing that gets lost sometimes. The quicker and less

painful you can make it, the more value you're actually delivering in the end, and the higher the service overall.

COLBY: Right. So, we talked a little bit about this already, the managing of the data, but when we think about organizations using software as a service, it does seem pretty critical that you have to know exactly what's going to happen to the data. David gave a great example of data, metadata, being modified. But then you also work with the folks that have to do international litigation. That's a challenging environment.

DANIEL: Yes, and I don't want to speak ill of my own country but the United States versus Europe versus even Dubai... Dubai has its own data protection act, believe it or not, that governs how data can be managed and exported out of the country. I think it's absolutely key that when you're evaluating fast-paced solutions you look at both the geographical context, as David said, and your particular issues that surround your data. If you don't address that upfront it becomes nearly twice or three times as expensive when suddenly a European employee says, "No, that's not okay with me."

DAVID: Right. One of the risks that you have is that when you store data, like Gmail, your data ends up being stored in Luxembourg. And Google gets the subpoena and Luxembourg Google won't accept it because your data is stored there. Their rights

for privacy are greater, so you just don't get your data. And these types of instances are happening.

DANIEL: Let's be crystal clear. It's not that you don't get your data, it's that you don't get *any* of the data. I take my hat off to Google because of the terms and conditions. Well done. But it is a very salient and key point. I think the other thing that is critical is figuring out that there's a huge benefit also, depending on where you're using these sorts of solutions. You can pull levers to actually do early case assessment that have been determining, because more and more, as in-house myself, I want to know what it's going to cost and not only what it's going to cost but really what does the situation look like. The more visibility I can get into that and give different outside firms the ability to actually engage in that process, it's really an invaluable tool.

DAVID: Right. I saw an article recently where a company in California contracted to use Microsoft Office online, and they put a provision in the contract that everything must be stored in the states. And I know of the law firm, not a law firm, a corporation rather, that had agreed to do that. IT had started down the road when they informed legal, and legal threw up the red flag. And it's been on hold since. But they actually started down that road, and I think that brings me to one point that I would like to make. I know we're going to probably say

all these main points that we will bring up again and again, but it is key to make sure that you collaborate with the rest of your organization when bringing in these things. If you don't, SaaS is not local, it's not on your local networks, and that is going to make people nervous. Sometimes, depending on the service, you don't even know where it's going to be, which makes them more nervous. So, I think that needs to be something that you collaborate very closely in lockstep. As they used to say in IT, six months ago align yourself with the business. And IT should be in touch, not just with the business but with legal as well.

DANIEL: And I'm a huge advocate of that. I call it the beer drinking theory. Which is it does very well if you take your IT people, or your different IT stakeholders, out for some beers or for dinner or whatever. And you take the legal people as well because there are legal issues that come up. And if you have buy-in or engagement from the legal, the record managers, and the litigation support people at the beginning, then you're going to find that the entire process and the delivery will not get stalled until you get to a different point.

COLBY: So really getting engaged and keeping yourself educated, but also there's an exchange here. We were talking about it from the legal side but now IT can learn a lot more about what legal needs so that as IT plans new business

applications they can start to think in terms of what the legal people are going to require. They can be proactive.

DAVID: I know an organization that stores data in an ECH hold more or less for preservation. That has to be thought through. It may work well for one unit, but may not work well for another. You have to go through those... That's the used cases, the playbook, and the financials of it. Is it the right thing to do? They did, and they felt good with it. So that's great. But is it going to work in many organizations? I don't know.

DANIEL: And it can blow up in your face as well, because what you think exists today, you need to think for what might appear in the future as well. IT people often say you shouldn't think of lawyers as people who are protectors of their organization, but rather you should view them as individuals who are specifically a divorce lawyer, or an estate lawyer, or in some capacity that's not as an advocate or protector of the organization, but rather in that functional sense. They don't understand that litigation might go for seven years or five years. And I can tell you in IT time, five years are like eons. Five years ago were all running windows XP or Windows 95 and Outlook 2000 and Office 2000. And the idea that people would have iPads and Macs in the workplace sounded funny.

DAVID: And some might argue that that still sounds funny, but yeah.

[Laughing.]

COLBY: Companies are trying to control more eDiscovery themselves, whereas before, in traditional sales, software or appliance model they would bring something on site to do POC and they might do a bake-off. This is a different world. How do you guys advise clients to trial or use eDiscovery services from the cloud?

DANIEL: Precisely...

DAVID: I think it depends on a case-by-case basis. I think for law firms it's actually not that difficult if you have the opportunity to work collaboratively with the client and say, "Look there's this new service that I want to try on this small case. Let's try this out, let's see how works. It could save you money, it could provide you these advantages." Because if it doesn't provide those advantages to make the case, then why are you going there again. You're going to probably have some advantage and you'll be able to make that case and you'll be able to work together with them. I think that most clients would value that. "Oh, you're trying to save me some money; you're trying to provide me more service." It's a good thing. That's an enlightened approach, and you may just want to pull the Enron data down from the EDRM website, and load it in there. Most firms have a case loaded already. Kick its tires and possibly run a comparison of one or two services with the Enron case and do searches and see how the results compare,

just from an interface perspective. But it also depends on your solution. If you're looking at just doing the straight analytics, that's one thing. If you're looking at uploading data, or having your data there and getting it into a review tool, that's another thing. It's ultimately not dissimilar from any other business decision where you have to look at the merits and the details of the use cases, execute those, report accurately on them and make an informed decision. I hate to bring it down to bread-and-butter and make it less sexy, but that seems to be my way to deal with it. Sorry.

DANIEL: And my philosophy is somewhat similar. I split law firms out from everybody else because they're able to, for lack of better language, basically test many different cloud-based solutions across the client spectrum before they find out what might or might not be working. So I sort of leave law firms out of this. I think law firms should approach it in a little different fashion. But I think a large company, or any company for that matter, should try before you buy when it comes to a cloud-based service. And because it's cloud-based, you're not going to be wed to any one thing initially. You can take your single case or single matter, and give it a whirl. And I always tell people to make sure that you get the reference clients but, more importantly, make sure you take a small case, something you're comfortable with and that your people can learn, and try it out. Because no matter what you're doing,

there's a learning curve. Not only for the technology people, but for the lawyers as well, because this impacts the entire legal process. And there are subtle nuances, and they might not be substantial but if you don't know about them and you end up missing them or you're not thinking about them, they can have an impact. And the other piece is that often in-house or large companies work with outside counsel. So when a large company evaluates cloud-based solutions, it's a lot more complicated because not only do their internal legal and internal technology people need to have some buy-in in some sense, they also need to make sure that there is buy-in in some sense from the law firms that are servicing you to make sure that they are comfortable and able to use it as well. Because I've also been in situations where the law firms run into issues in figuring out the most effective and efficient way to use the tools that the company or organization has adopted.

DAVID: And to some degree, not to toot our horn, but, having an organization that has experience with it—a consulting group or vendor or someone who is familiar with numerous tools within the environment and within the market—will help you make those decisions. I think that's a key point. Get the people who know, even if it is a peer organization that has done these things. Becoming part of organizations, round tables, or discussion groups sounds pedestrian, but it really does make a difference. These people will help you because they've had the

experience. As Dan said, "I've made the mistake for you so you don't have to make them yourself."

DANIEL: I've found it an invaluable resource to work with my peers and talk to them and learn from the different issues they've experienced. And similarly, I'm sure that they've found it very valuable to learn from how I evaluate cloud-based solutions or pick solutions. I think, at the very least, collaborating from people who have done it, depending on how far or how complex it is, and engaging the appropriate resources internally and externally help you make that decision. Some of the companies that we work with have 50 or 60 different outside law firms that are working with them at any one time. So a cloud-based solution certainly takes on a different context when you're deploying it in that kind of environment.

COLBY: Just briefly, because I want to leave a little bit of time for questions, but you have both identified software as a service; eDiscovery as software as a service. And it was neat, the idea that you could bring something on board that was try before you buy. It's also really interesting that software as a service allows the vendor to innovate and iterate rapidly, bringing new products to bear. But you'd also mentioned, and it is shown here, some of the challenges. The future is dynamic and neat, but it has at least a couple of challenges. And Dave, these are some of the points that you make.

DAVID: Yes, I think it's really important to recognize the impact of changing around so much, not that you would, but even one change. If you like a tool and you've invested some data and effort and training, some documentation and now you have to switch, what will that cost? For example, if you currently use one particular SaaS tool, or one particular in-house tool and you're going to try another, be prepared in advance to migrate the data back to your original in-house platform, or your existing SaaS platforms should you not be pleased. You should have a contingency plan in place. Have those protocols, your playbook, down in preparation. That way if the system, this new thing you're trying, blows up because of its functionality or the client's not happy you have a fallback position and are prepared. I think that's important.

DANIEL: And I think to build on that one real key point is that just because it saves you money up front doesn't mean that it's going to save you money overall. Just because there's an immediate real life savings, doesn't necessarily mean that the cost won't be incurred elsewhere. It is also important to realize costs are changing. The rate and the pace of change today are so much quicker than anything we've really seen in the marketplace in the past. I remember when people started to mess around with going lower than \$500 a day for the whole processing thing. And now today, when you find somebody willing to pay you \$500 a day, you take them to dinner...a whole lot! No.

You know, in all seriousness, things are changing rapidly, and so staying abreast and staying educated is important. But also recognizing that you don't want to wear on your users, right? You don't want to always ask lawyers to learn new tricks. And you don't want your clients and their litigation support people to learn tools. You want to make sure there is that consensus in the beginning and that will end up having substantial value in the long term when you do embark on change. And of course, as David said, having that backup is extremely important. If you don't have it you are going to be a really unhappy camper.

COLBY: But these are going to be exciting times. The software as a service landscape is going to continue to evolve rapidly, and new services are going to continue to come online. If you're looking to evaluate software as a service vendors or solutions, this is a fine time to do it. There are risks associated with any of these business moves, but I have to imagine that it's going to begin to stabilize pretty soon as a lot of the pricing starts to work itself out and the market figures out that it's not \$500 a gig any longer. So say goodbye to those dinners.

DAVID: Well, I think one thing that will occur is that you'll see lateralization in it. So in an attempt to diversify, you're no longer going to have cost being the differentiator, but you going to have integration values or other secondary values as the differentiator. So yes, we can do ECA on Amazon

EC2 cloud with native API connectors. And we have a client, a local client that can do stuff in our cloud. This is really going to be where people are going to try to wow you and woo you.

COLBY: Yeah you're into efficiencies and ease-of-use.

DANIEL: You're moving to focus on the nuts and bolts of how you actually are saving money instead of just the basics, and operationally delivering the value to the customer, which is actually what I'm seeing already today. The Amazon thing you were talking about is certainly something that I'm hearing in conversation here and there. I think as people are becoming more educated, and as the market is settling, you are certainly seeing the emphasis and focus much more on enabling and empowering attorneys and giving the client the ability to effectively manage eDiscovery rather than be overwhelmed by it, I guess, for lack of a better term.

DAVID: And those make a big difference because if you are a growing organization and you don't yet have a records management program in place, it could well be that you're going to want to use something in the cloud. And if that's the case, you want something that connects to your ECA tool, to your review tool, to your document management system tool, to your e-mail, potentially. It's all seamless. And just because you get a great price, or a really good feature set in one area,

doesn't mean that it's a slam dunk compared to the bigger picture.

DANIEL: Exactly.

Colby: Well guys we covered quite a bit, and I want to leave room for at least one question here, maybe two. And maybe we can summarize it. So let's start with Daniel. You've made this point a number of times about having a playbook. Can you summarize this take away and then have Dave follow-up?

DANIEL: I think that a playbook is a tool to allow counsel, whether it is in-house or outside counsel, or law firm, or lit support, to really be empowered in the discussion and dialogue over how they want to enter into the cloud-based solution. It also allows you to engage the various stakeholders, IT, legal and everybody, so that there's some sort of uniformity. You need to have conferences as to how you going to manage production, how you going to manage formats, how you'll manage vendors, and know the key takeaways in those processes.

DAVID: Right. And I would look at that somewhat as a tactical level. At the strategic level I would suggest you need to be able to think of those business case scenarios where you have a crisis and you have to turn things around within 24 hours. You can't extend your network that quickly. So SaaS could potentially be the perfect solution. Then, as your

business evolves, and you have new scenarios, you integrate them into that strategic-level playbook, those use cases.

COLBY: And transparency, getting to control and controlling costs?

DANIEL: The advantage of having a playbook is that you'll be able to save a lot of money using cloud-based solutions. You don't have to buy servers. You don't have to buy storage. You don't have to hire all of these different people to manage all of that. You don't have to waste all that time. And, like David said earlier, if you need to get something done quickly, you don't have to go to Best Buy to buy more memory or whatever you need. You're realizing substantial savings and providing your clients a lot more visibility as to what is going on and how it's actually happening.

DAVID: I think, Dan, you actually pointed this out before, as to the clients; they see within the processes what is actually being done, who's performing what, and the auditing, within the use of these tools. You actually see the performance. And that transparency, for billing purposes, gives clients more comfort. For the hands-on people, it lets them know what they're doing and lets other people know what they're doing. I think that people tend to perform at a bit of a higher level then.

DANIEL: Yes, it raises the bar.

COLBY: Part of the key take away here is all about being active. It's really about the education; continuing your own education and, of course, engaging with others. And this webinar and reaching out to you guys is all part of that same process, right? But I think we, as a group, are encouraging everybody to continue to expand their own education and understand as much as possible about cloud offerings. There's a lot of detail in here, but you don't have to do it alone. Make sure that you're engaged with others to get the help and support that you need.

COLBY: I just want to help us a little bit for the audience, because we're running out of time. There are a number of resources, and we're not going to get a chance to talk to these, but these are some articles that are recent and relevant to the topic here, all designed to help you keep up to date with how cloud is being used and how to be using cloud services safely and how to be prepared for them. I know that Daniel has also written a number of articles, and we will get those posted up as well.

DANIEL: Because I talk so much, if anybody has a specific question that we weren't able to get to... I don't know how Dave feels about this, but you can feel free to contact Colby or myself, or anyone of us through e-mail and if I think I can answer it quickly I'm more than happy to give it a shot.

David: Absolutely. We are here to serve.

Colby: Well you guys have been fantastic and I think that this conversation has been very good. I'm sorry that we've run out of time. For questions, and we do have some, we'll follow-up via e-mail or through this tab session. The recording for this webinar will be posted up on the Digital Reef website. You'll be able to find that. But I wanted to take this time to thank both Daniel and David for joining us on this call. I really appreciate the expert level of insight and advice.

Thank you.