

Michael Simon, Seventh Samurai, LLC, Electronic Discovery and Legal Technology Expert

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About Me

I am a licensed attorney, with six and a half years' experience as a trial attorney in Chicago, where I was an early innovator in using electronic evidence to win cases for my clients. I have recently returned to the practice of law, part-time as a data privacy and security attorney in the Boston, Massachusetts area.

I have worked with a number of organizations to assist them with eDiscovery issues, including the Office of the Attorney General of the Commonwealth of Massachusetts. I have been an adjunct professor at Michigan State University College of Law and at Boston University School of Law, teaching classes in eDiscovery. I've held leadership positions with such innovative eDiscovery industry providers as Navigant, Iron Mountain and Stratify.

Over the years I have made over 100 presentations as speaker, panelist and moderator at national and local events, webinars, law firms, corporations and law schools. I have written dozens of articles on eDiscovery and legal technology topics, including co-authoring a law journal article providing practical advice and a framework for the discovery of databases.

I received my J.D. from Loyola University Chicago School of Law, where I was a published author and an Editor-at-Large of the law journal, and my B.A. cum laude from Tufts University in two majors that have nothing to do with what I do now.

How I can help you

eDiscovery has been around for well over a decade now. Frankly, eDiscovery should be pretty easy to do by now, except that it isn't.

Leaving aside for now why eDiscovery is still so hard, the most important issue for you is that you need help, you need it from somebody who knows how to help you, from somebody with experience working with the government and you need it at a price that fits your budget.

Hence, I can help.

I've been working in the eDiscovery industry for over a decade, teaching as an adjunct at law schools as well, and I have helped people like you (at law firms, corporations and our local Office of the Attorney General of Massachusetts) to deal with eDiscovery. Specifically, I can help you with:

- Investigation planning:
 - Recommending appropriate resources and setting the budget;
 - Determining the proper custodians and date selection criteria for requests;
 - Selecting keyword search terms and analytics strategies;
 - Dealing with the difficult issues concerning discovery of databases; and
 - Managing expectations.
- Dealing with the other side:
 - Negotiating issues with opposing parties;
 - Narrowing requests and constraining the other side against “document dumps”; and
 - Selecting the right production formats to request.
- Using “structured data” (i.e. data from databases and corporate systems) to provide the complete picture:
 - Identifying when traditional “unstructured data” (e.g., email, texts, MS Office documents, PDFs) will not be enough to provide the full investigatory and evidentiary picture;
 - Identifying the right databases and systems from which to request data;
 - Drafting the proper structured data request, as this can be far more difficult than for unstructured data;
 - Handling the ETL (“Extract, Transform, Load”) issues; and
 - Analyzing, understanding, and visualizing the data.
- Getting the most out of the produced documents:
 - Assist with performing searches, prioritizing results and finding the key documents;
 - Selecting the right review technology (because the most popular systems are not always the best);
 - Filtering produced documents to identify the affected parties in your jurisdiction;
 - Creating online document repositories for multi-state matters; and
 - Using Technology Assisted Review/Predictive Coding (TAR/PC) to find the most important documents from the other side’s production.

What can you expect from your initial, 20-hour consult?

eDiscovery needs to be tailored for the specific needs of each case, but there are certain issues that tend to come up quite often in each context.

If you contact me early in the matter, during the investigation, I can probably help you get past the initial stages of an eDiscovery project with an initial 20-hour consult. I would expect that we would focus on the following in this phase:

- Budgeting for vendors, technology, reviewers and the like;
- Timing expectations for a best-case scenario . . . and worst-case too;
- Resourcing for people and technology/vendors;
- Process and workflow development, particularly considering budget, time, resources and overall goals; and
- Strategy for the requests.

If you bring me in later in the matter, once the case has been filed I can assist you with getting past the early potential eDiscovery battles with a solid going-forward plan, so that we can focus on:

- Drafting an eDiscovery plan;
- Strategy for negotiating with the other side (I can also assist during the actual negotiations, but that will likely run past the initial 20 hours);
- Setting search terms, identifying custodians and filtering for dates, file types and the like;
- Identifying and obtaining any structured data sources;
- Requesting the right production format; and
- Resourcing, budgeting and process – if not addressed sufficiently earlier or if they have gone awry.

While they say that “a stitch in time saves nine” sometimes eDiscovery goes wrong no matter how carefully you sew things up at the planning stages. If you require assistance setting eDiscovery gone wrong right once again, we can focus on the following, depending upon the specific problems:

- Managing an opponent who will not cooperate or, perhaps worse, is just plain clueless about eDiscovery;
- Using Technology Assisted Review (TAR) and/or Predictive Coding to find the key documents (especially in document dumps);
- Determining if the other side has missed or left out documents;
- Gap analysis of what appears to be missing (especially structured data if the emails/text/etc. are giving you only an incomplete picture)
- Finding the right vendor/technology partner – or how to best replace the wrong one; and
- Fixing a blown budget.

Finally, if you specifically need help with the often-difficult eDiscovery of databases, I can provide an initial consult focused upon:

- Setting the preservation, collection and review strategy around case needs (key issues, type of proof needed, etc.);
- Educating the other side and/or judge on why database discovery is different, difficult yet often necessary;
- Managing the highly technical ETL issues that arise when you need to obtain the complete, operational database; and
- Providing a means to analyze, understand and visualize the data – because you went to law school to become a lawyer, not a data scientist.