

EXHIBIT A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

AMERICAN CIVIL LIBERTIES UNION
OF MICHIGAN,

Plaintiff,

Case No.: 5:17-cv-11149-JEL-EAS

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and U.S. CUSTOMS AND
BORDER PROTECTION,

Defendants.

DECLARATION OF SCOTT PILAT

Scott Pilat states as follows:

1. I am the Manager of Litigation Support at Honigman Miller Schwartz & Cohn LLP, an AM Law 200 firm with 250+ attorneys and 7 offices. I have served in this role since 2015. Prior to Honigman, I worked for nearly 10 years as the Litigation Support Manager at Dykema Gossett PLLC, an AM Law 200 firm with 350+ attorneys and 12 offices, where I founded and formalized the firm's Litigation Support Department. I have worked managing information systems at law firms since 1995. My resume is attached for your reference. I can testify to the facts in this declaration from my personal knowledge.

2. In my role as Manager of Litigation Support, I am frequently asked to provide estimates for clients regarding the rate of document review both Honigman

attorneys and contract attorneys can achieve. Over the course of my career in the legal profession I have developed expertise regarding document review and production processes that I call on when providing estimates to clients.

3. Typically, I estimate that contract attorneys hired specifically for document review can review 250-350 documents per day, at 8 hours per day, at a rate of 32-44 documents per hour. Assuming an average of six pages per document, as my experience counsels, this works out to 1,500-2,100 pages per day, or 188-263 pages per hour. Assuming 22 workable days in a month, a contract reviewer is estimated to review 5,500-7,700 documents per month or 33,000-46,200 pages per month.

4. Because Honigman attorneys are typically more familiar with the case at hand and better able to make efficient decisions regarding documents, we typically estimate them to be more productive. A Honigman attorney can review an estimated 400-500 documents per day, at 8 hours per day, at a rate of 50-63 documents per hour. Assuming an average of six pages per document, this works out to 2,400-3,000 pages per day, or 300-375 pages per hour. Assuming 22 workable days in a month, a Honigman attorney is estimated to review 8,800-11,000 documents per month or 52,800-66,000 pages per month.

5. Accordingly, a “hybrid” of the two attorneys, taking the average of the two types of attorney, is estimated to review 42,900-56,100 pages per month.

6. Defendants' Proposal (Dkt. No. 36, Pg. ID #408) states that between October 2016 and May 2017, Customs and Border Protection reviewed and released 45,552 pages in response to FOIA requests, or an average of 5,700 pages per month, a rate that is far below the rate of review for a single attorney at Honigman.

7. Defendants claim that here there are 4,412 potentially responsive email documents, totaling 45,598 pages, which they have collected from their initial six custodians. Defendants claim that at their proposed rate of 5,700 pages per month, if the Defendants dedicated their entire existing FOIA document review staff to Plaintiff's FOIA requests, it would take Defendants 8 months to review and release the initial round of documents. In contrast, I estimate that a single contract reviewer could review 45,598 pages, at a rate of 1,500-2,100 pages per 8-hour day, in 22-31 days. I estimate that a single Honigman attorney could review 45,598 pages, at a rate of 2,400-3,000 pages per 8-hour day, in 15-19 days. A hybrid reviewer could review an estimated 1,950-2,550 pages per 8-hour day, and could review 45,598 pages in an estimated 18-24 days.

8. Both contract and Honigman attorneys are often reviewing and marking documents for responsiveness, privilege, redactions, and specific issues important to the litigation. The estimates for both contract and Honigman attorneys already account for the time necessary to evaluate whether a document is

subject to a privilege that exempts it from production, to identify and mark redactions, and to sort documents into various categories based on their content. Although I do not know whether the review and redaction process for FOIA productions would be any more complicated than the review and redaction process for litigation documents, I will generously assume that reviewing documents for FOIA exemptions doubles my estimated review times.

9. Assuming FOIA document review is done at half the speed of litigation document review, a single contract reviewer could still review an estimated average of 750-1,050 pages per day, or 16,500-23,100 pages per month. (For example, Defendants' initial email set could be reviewed by a single contract attorney in an estimated 44-61 days.) A single Honigman attorney could review an estimated average of 1,200-1,500 pages per day, or 26,400-33,000 pages per month. (The initial email review could be conducted by a single Honigman attorney in an estimated 31-38 days.) A hybrid reviewer could review an estimated 975-1,275 pages per day, or 21,450-28,050 pages per month. (The initial email review could be conducted by a single hybrid attorney in an estimated 36-47 days.)

10. Typically, however, a document review and production project entails a team of reviewers, and not just one. Assuming a review team of two, a contract team could review an estimated 33,000-46,200 FOIA pages per month, a Honigman team could review an estimated 52,800-66,000 FOIA pages per month,

and a hybrid team could review an estimated 42,900-56,100 pages per month. I estimate that teams of all three types of reviewers described could complete a review of 45,598 pages within one month, and the review speed will obviously increase with each additional reviewer added to the team.

11. I declare under penalty of perjury that the foregoing is true and correct.

This 20th day of September, 2017.



Scott Pilat

Professional Experience

Manager, Litigation Support

Honigman Miller Schwartz & Cohn LLP (January 2015 - Present)

Highlights

- Litigation Support Manager for AM Law 200 firm, with 250+ attorneys and 6 offices
- Brought in to take existing Litigation Support Department in a different managerial and technical direction
- Raised the service level of the department through the development and implementation of repeatable workflows surrounding all aspects of Litigation Support
- Turned Litigation Support Department into a higher profit center that previously seen due to increased capture of billable hours, reduction of vendor reliance and expansion of services
- Developed formal in-house processes and training courses for the Firm's litigation support applications
- Designed and created detailed database to track all departmental activities including e-discovery processing and billing, trial activities, document productions and more

Managerial Duties

- Develop new and refine existing departmental strategic initiatives
- Schedule and coordinate departmental projects
- Monitor billable hours of team members to verify they are at acceptable monthly, quarterly and yearly levels
- Communicate, market and promote use of the firm's Litigation Support tools and services
- Interview, vet, hire and monitor Honigman approved E-Discovery vendors
- Review and coordinate payment of all vendor invoices for department
- Interview, hire and performance evaluations of departmental staff
- Prepare annual budget for department

Ipro Administrator

- Administer Ipro, Honigman's in-house document review platform
- Development of standardized template for matters to create a consistent review experience for not only all Ipro cases but also other review platforms such as Relativity
- Assist teams with development of review strategies leveraging Ipro's tools
- Along with IT, monitor and maintain entire environment to ensure peak performance for users and coordinate support when required
- Introduced to firm leadership idea of low-cost client chargebacks for data storage and alternative billing models for Litigation Support services

Relativity Administrator

- Assist teams with development of review strategies leveraging Relativity's tools, including predictive coding (Relativity Analytics)
- Development of standardized template for Relativity matters based on our Ipro template that was mirrored across all Relativity environments and all vendors the firm works with to create a consistent review interface
- Work with vendors to improve the Honigman user experience through better workflows and leveraging of vendor knowledge and their proprietary application improvements

Data Reduction and Compliance Initiative

- Coordinated the firm's General Counsel, Records Services and IT and developed an encompassing Litigation Support data reduction plan
- The initiative saw the removal or matter level archiving of over six TB of legacy Summation data, the migration of dozens of matters from Summation to Eclipse and the archival of over two TB of closed Ipro matters
- The plan will ensure compliance with the firm's retention policies, client agreements and IT workflows moving forward through better case organization and communication with Records Services group
- Allowed IT to see substantial cost reductions through the freeing of a significant amount of storage, reduction in backup time and costs and the elimination of support for legacy software and hardware

Project Management

- Manage a wide array of document review projects in multiple document review platforms such as Relativity and Ipro
 - Coordinate and manage review teams consisting of both contract attorney and Honigman document reviewers
 - Work with case teams to determine benefit of hosting review data internally vs. hosting with 3rd party vendor and also when to utilize contract attorney reviewers
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Manager, Litigation Support

Dykema Gossett PLLC (August 2005 - January 2015)

Highlights

- Litigation Support Manager for AM Law 200 firm, with 350+ attorneys and 12 offices
- Founded and formalized Dykema's Litigation Support Department
- Turned Litigation Support Department into a profit center through capturing of manager and staff billable hours, bringing electronic document processing in-house and through chargebacks of data storage in Relativity
- Through departmental success and growing need for services provided, was able to expand department from one to a department of four
- Developed formal in-house processes and training courses for the Firm's litigation support applications
- Designed and created detailed database to track all departmental activities including e-discovery processing and billing, trial activities, document productions and more
- Worked in court during more than 30 trials creating all electronic presentation of evidence, including working as "hot seat" technologist that produced victories for our clients resulting in over \$120 million in verdicts

Managerial Duties

- Schedule and coordinate departmental projects for three direct reports
- Monitor billable hours of all team members to verify they are at acceptable monthly, quarterly and yearly levels
- Communicate, market and promote use of the firm's Litigation Support tools and services
- Interview, hire and evaluate the performance of departmental staff
- Prepare annual budget for department

Relativity Implementation

- Spearheaded initiative to replace the firm's legacy document review application for over 100 users
- Creation of product review team consisting of attorneys and legal specialists with multiple review platform experience to evaluate application offerings
- Served as project lead working with vendor to design the environment and ensure all deadlines and specifications were met
- Worked with CIO to develop "hybrid" hosting model that had external vendor host and maintain backend of Relativity environment while Litigation Support handled creation and project management of all Relativity workspaces
- Introduced to firm leadership idea of low-cost client chargebacks for data storage resulting in revenue generation from the environment and reduced hosting charges for clients (vs. external hosting)

Relativity Administrator

- Assist teams with development of review strategies leveraging Relativity's tools, including predictive coding (Relativity Analytics)
- Based on experience with Dykema teams and past Relativity experience, design templates to serve as basis for Relativity workspaces
- Along with team, monitor and maintain entire environment to ensure peak performance for users and coordinate support with hosting vendor when required

Litigation Support Processes and Workflows

- Develop workflows for e-discovery processing, Relativity processes, case budgeting and document review to ensure predictable and consistent results for projects
- Develop training programs for attorneys and legal staff on the use of computer technology in case management, e-discovery and trial presentation software
- Make recommendations to Practice Group Leaders regarding litigation support products and services
- Implement firm-wide use of standard technology products and processes to support litigation cases
- Created a Litigation Technology Timeline for attorneys related to how the Department can help during each step of the litigation process from being put on notice of a lawsuit to post-trial actions

E-Discovery Project Management

- Oversee lifecycle of e-discovery projects from initial identification through final production of data
- Make recommendations for ways to cull document collections up front to minimize review time
- Contact vendor to assist with collection and processing of identified custodian data
- Work with vendors to draft specifications for either output to review in-house or to setup online review platform for team and/or multi-firm review
- Work with case teams to determine benefit of hosting review data internally vs. hosting with 3rd party vendor
- Work with case teams to determine benefit of using in-house vs. contract reviewers

Trial Support - Local or Out of State

- Provide "hot seat" presentation and support services during trial
- Deliver and setup all equipment to be used during trial
- Provide 24/7 technical support to trial teams
- Work with the trial teams to create exhibits, multi-media presentations and demonstratives using TrialDirector, PowerPoint or other software
- Visit courtroom to determine optimal layout and setup of hardware such as a projector or document camera
- Meet with court officials to determine what technology will be allowed in the courtroom and also to discuss any rules or requests the judge has regarding technology
- Design and set up secure wireless "War Room" at hotel containing networked printers/scanners, internet access and draft detailed instructions on use of equipment

E-Discovery Data Processing (Using LAW Pre-Discovery)

- Driving force behind purchase and implementation of LAW electronic discovery processing software to bring processing work in house
- LAW implementation resulted in the department being able to turn this work into a profit center for the firm, while simultaneously reducing charges to our clients
- Significantly reduced the turnaround time for projects and their delivery to teams for review

Litigation Hold Coordinator

- Work with general counsel to implement and monitor internal litigation holds
 - Developed all technical processes for initiating and monitoring hold compliance
 - Collaborate with multiple departments to coordinate identification, preservation and collection efforts
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System/Network Administrator; Assistant Manager - IT

Kitch, Druchas Law Firm (May 1998 – August 2005)

System/Network Administrator

Performed all duties related to network operation for over 225 users and six offices including, but not limited to:

- WAN/LAN architecture planning, implementation and troubleshooting
- SQL server administration and maintenance
- Exchange e-mail server administration and maintenance
- Diagnosis and repair of desktops, laptops, servers and printers
- All aspects of user maintenance, including general technical support for over 125 applications
- *Technology Committee Member* - Comprised of two IT staff members and two attorneys, this committee guided the Firm's technological progress by reviewing the current and future technology needs of the Firm

Project Management

Plan and implement upgrades to hardware and software through pre-planning and analysis of current systems, preparation of implementation schedules and coordination of IT staff and all affected departments

Major projects managed include:

- Two complete infrastructure upgrades including replacement of all WAN routers and switches
 - Multiple Microsoft server and Novell server operating system upgrades
 - Multiple firm-wide upgrades to hardware, desktop operating system and application software
 - Numerous additional server hardware upgrades/migrations
 - Several physical office location moves
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Legal Assistant - Construction/Commercial Litigation

Kitch, Druchas Law Firm (February 1995 - May 1998)

- Created and organized document tracking system for many document productions that exceeded 250,000 documents for attorney use during trial
- Organize and prepare for trials including: Electronic and standard exhibit creation and preparation, lay and expert witness location, client contact, courtroom setup and breakdown

Platform/Application Experience

Relativity 9.x	Ipro 2017.x
TrialDirector 6.x	LAW 6.x
TextMap 6.x	Summation iBlaze
TimeCoder Pro	Microsoft SQL Server 2012, 2008, 2000

Education/Certifications

- Bachelor of Arts Degree - Legal Studies (Legal Assistant) - 1994
Grand Valley State University - Grand Rapids, MI
- Relativity Administrator and Infrastructure Training
- Ipro Administrator Training
- TrialDirector Certified Trainer
- LAW Certified Administrator
- LitWorks Certified Litigation Support Manager Program
- Summation Certified Trainer (SCT)
- Network+ Certified
- A+ Certified
- Novell Administrator Certified (CNA)