

## TOP E-DISCOVERY TALENT: WHY OWN, WHEN YOU SHOULD LOAN

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One of the top trends and biggest secrets in the e-discovery industry from 2014 to the present is the dynamic shift from full-time permanent to contract and temporary staffing. With changes in pricing models squeezing margins, continued consolidation and the ongoing attempt to combat business cycles that spike erratically with the ebb and flow of litigation, hiring authorities at corporations, firms and service providers are turning to contract staffing options to solve many of their profitability and scalability problems.

There are numerous advantages and challenges facing companies and employees when considering contract staffing as an option, as well as reasons why contract staffing has begun to permeate the e-discovery job market more meaningfully in recent years.

The primary reasons for the dynamic shift toward contract e-discovery staffing come from both the interests and motivations of the talent pool as well as the changing needs of the employers. (And to be clear: This does not mean contract attorney reviewers, but rather technical and consultative e-discovery talent with advanced to expert-level experience in the identification, preservation, collection, processing, hosting and analysis stages of the EDRM.)

This article, the first of a three-part series, will examine why e-discovery is shifting toward robust contract staffing models and how individuals and employers are recalibrating their expectations and hiring strategies to integrate contract staffing into their human capital plans to reduce annual overhead, minimize employee liability, increase margins and



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profitability, scale rapidly and provide alternate career paths for truly talented professionals in the space.

### National Trends

According to Freelancing in America, an independent study commissioned by the Freelancers Union and Elance-oDesk, “The traditional ‘full-time job with benefits’ is becoming less and less common, replaced by a new gig-to-gig, project-to-project



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work life,” and “as many as 53 million Americans, 34 percent of the U.S. workforce, are engaged in some type of freelance work—up from 42.6 million in 2004.”

This tendency toward freelancing is more than just a trend in e-discovery; it is a national phenomenon. The legal industry is arguably behind the national trend toward contract staffing as a solution and lifestyle preferred by employers and employees alike. E-discovery, however, is uniquely ripe at this moment for an aggressive and deliberate shift in staffing with a focus on augmentation through temporary talent.

### Supply and Demand

The primary e-discovery staffing market trend that is

radically different from 10 years ago is the ratio of supply and demand in the marketplace. From 2002 to 2006, demand exceeded supply in e-discovery by such an extreme that employees were making 20-40 percent increases in base compensation by switching jobs every six to 18 months. Very few contractors were available, as the most skilled professionals were in well-paid (arguably overpaid) full-time positions. Full-time permanent positions were not hard to come by, especially within law firms in The Am Law 100.

Demand for e-discovery talent hit a brick wall from 2008 to 2010 during the economic collapse, creating stagnation and later deceleration of job movement, job mobility

and salary acceleration. This was the beginning of the sea change toward contract staffing in e-discovery. For the first time, talented professionals were suddenly available for temporary assignments thanks to broad layoffs and lack of permanent positions within law firms and vendors. There was a national downturn in litigation for some, but an aggressive increase for others (anyone involved in Madoff, for example). The economic collapse also drove e-discovery processing, hosting and review pricing down significantly, which in turn drove down employers' ability to offer wild increases in salaries in order to hire full-time talent.

Since the economic rebound circa 2011, e-discovery staffing demand has been accelerating well beyond the early 2000s, hitting an all-time high in 2016; however, the amount of available talent in the marketplace, particularly in the middle of the market, has organically increased since the turn of the millennium. This balance of supply versus demand around mid-market talent, coupled with post-economic collapse pricing and compensation metrics, created a stabilization of the

once dramatic salary increases required in order to acquire talent from competing employers from 2004 to 2008. This increased saturation of available talent has also finally grown to accommodate an availability of talent for contracts and project-based hiring. There is simply more skilled talent available now than there was 10 or even five years ago.

### Concrete Ceiling

Another reason for increased availability of seasoned and experienced temporary talent is largely due to the limited financial growth potential and lack of vertical mobility for project managers at vendors and law firms. As law firm staffing decreased and vendor staffing increased (mainly because of the advent and proliferation of subscription-based managed service models in e-discovery), the need to hire managers and directors in-house decreased proportionally. In fact, there has been an almost 500 percent decrease in the annual amount of director or manager-level positions available in The Am Law 200 since 2004. Additionally, as vendors continue to consolidate and merge, the number of available

service provider management roles in the general market also continues to drop.

So where does a seasoned e-discovery project manager or consultant go if not into leadership or management? Where does a manager go when squeezed out of a duplicative leadership role post-acquisition? Many are becoming contractors for moments of “reactivity” for the biggest and most complex cases exploding all over the world on a contract-to-contract basis. Yes, even seasoned directors who find themselves unemployed or bored with their jobs are turning to consulting on projects to stay relevant, maintain career enthusiasm, beef up their hands-on tech chops and make a living.

This path can afford any employee more dynamic exposure to a variety of clients, cases, technologies and people with the potential to mature their experience in ways they could not expect hunkering down in a full-time job with a single employer. This approach can also help senior project managers figure out what the right cultural fit and job path should be for them, rather than purely hypothesizing about what to do next. Contract

staffing as a means to figure out what you as an individual are looking for professionally seems like a risky proposition to Generation X, but comes quite naturally to millennials.

In part two of “Top E-Discovery Talent: Why Own, When You Should Loan?” we will continue to explore the motivations leading to the adoption of robust contract staffing models in e-discovery, including the millennial factor, desire for paid overtime, need for scalability, the impact of managed services, tool consolidation and, most recently, kCura’s move to the Microsoft’s Azure cloud—a change that will likely cannibalize vendors’ hosting and processing revenue and shift the entire focus of the industry toward professional services.

*Jared Coseglia is the founder and CEO of TRU Staffing Partners, an Inc 5000 Fastest Growing American Company 2016 and National Law Journal’s #1 Legal Staffing Agency, and has over 13 years of experience placing thousands of professionals in e-discovery, litigation support, cybersecurity and broadly throughout legal and technology staffing.*