

## WHEN SHOULD YOU PULL THE TRIGGER ON HIRING E-DISCOVERY CONTRACTORS?

The final part of this “Contract Staffing Revolution” series examines how the adoption of the cloud will affect contract talent.

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Electronic discovery is moving toward a community of freelancers. Part One and Part Two of “The Contract Staffing Revolution” outlined why this trend has shifted from possibility to reality. This final chapter will tactically detail when employers commonly pull the trigger on e-discovery contractors and explain how the growing adoption of cloud technology, namely of kCura’s RelativityOne, will usher in and require an even greater engagement of contract talent.

### When to Hire Contract Workers

Knowing contract e-discovery resources are available seems to be half the battle! Employers are generally stunned to find out this is even an option. After working with dozens of hiring managers and placing hundreds of people in various roles for various reasons, here is a short compilation of when e-discovery (and cybersecurity) employers most frequently use contract staffing as a resource:

Landmark litigation is the most common time corporations, law firms and vendors alike will augment their staff with robust contract solutions; everything was going great until some huge matter and now all the processes and staffing need a total overhaul and rapid scalability to meet the demands of this one litigation (e.g., Deepwater Horizon, Cobalt, Volkswagen, Madoff). Landmark litigation often goes hand in hand with the second most common employer motivator for contract staffing: geography.

While e-discovery is certainly everywhere now, the talent to support e-discovery is not. Corporations, specifically in Europe, Asia and third-tier U.S. markets like Detroit, Las Vegas or Columbia, South Carolina, which find themselves in serious need of sophisticated talent on premise will undoubtedly struggle to identify and retain the amount of people locally to support their projects. Generally speaking,



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the vendors and law firms who support clients in these markets (often from afar) also do not have the bench strength locally. This is where contractors come in volumes.

The third most popular use for contractors is for shift coverage at law firms and vendors. It is extremely difficult to maintain quality staff for second, third (overnight) and weekend shifts in e-discovery. Full-time hires on



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these shifts are generally looking to be promoted to day shift or are, from the moment they are hired, at high risk of being poached or leaving for another employer for a day/weekday shift. Talent on these shifts do not have to interact heavily with clients but do have to have “plug-and-play” technical skills to be able to execute on projects and follow instructions without much oversight. This is the perfect time to hire contractors. Institutional client knowledge and cultural fit are less critical than ability to execute autonomously, and there are plenty of skilled e-discovery professionals who want to work off-hours, ideally from home, who can step in and step up.

Additional times when employers augment include moments of intense caseloads, hiring contractors to unburden the full-time employees of overtime work; vacation coverage or maternity leave, specifically in law firms and corporations with very small departments; a need for a niche

temporary skill (“We just got all this work involving IDOL engine and need an expert!”); “try-n-buy” or contract-to-hire; e-discovery vendors who do not have robust cyber practices (yet) surge for data breach remediation, penetration testing, forensic collection and, notably, cyber risk assessment. But, one demand stands out from all of the above: contract RCAs.

The demand for Relativity Certified Administrators (RCAs) in today’s market is extreme. Having an RCA immediately increases your value financially and is huge leverage for quickly attaining contract staffing positions throughout the world. Employers, specifically for contract assignments, prioritize talent who have the RCA credential over ones who do not. Right now, the equilibrium between need for contract RCAs and availability of RCAs is balancing, and soon clients will not need to wildly overpay on base salary for full-

time hires (which they have been for years) in order to augment their staff with viable RCAs on a contract basis. But will this need for RCAs continue to increase as kCura pivots and turns its attention to the cloud?

### **KCura Goes Cloud, Talent Goes Contract**

The contract staffing revolution is occurring hand-in-hand with e-discovery’s shift toward the cloud and may continue rapidly with the gradual adoption of RelativityOne. This is no coincidence. E-discovery has and always will be an event-driven business. The aggressive adoption of managed services has aimed to combat unpredictable cost and talent demands, but e-discovery moving to cloud-based solutions opens up the possibility for financial flexibility through event-driven resource utilization. KCura’s dominance in the market could cause a sea change in the way all e-discovery buyers and sellers approach their process with regards to talent and technology.

Shawn Gaines, director of marketing communications at kCura, is adamant that kCura will continue to support and enhance its three business models for Relativity despite the rollout of RelativityOne: “on premise, fully cloud, and hybrid models.” Gaines specifically noted that the purpose behind the One cloud offering was to “eliminate infrastructure, monitoring, and backup” for users of Relativity. It is

a strong argument for cost savings, intelligent data governance and ad hoc ability to create workspaces quickly in Relativity. The same argument can be made for contract staffing: Clients immediately save cost on YOY salaries; payroll taxes/processing expenses; workers comp insurance; health insurance and benefits; HR/administrative responsibility, oversight and compliance; unemployment; bonuses and severance.

However, many vendors and current third-party licensors of Relativity have been vocal about concerns that this new business model has the potential to dramatically consume their hosting and processing revenue. Despite the fact that hosting fees have dropped from 6-7\$/GB to as low as “free,” many third-party vendors rely on this stream of revenue to support their bottom line. When addressing these fears of One, Gaines commented that, “We’ve been working closely with our partners on Relativity-One since we first dove into the idea, and see it as an opportunity for them to focus less on infrastructure maintenance and more on value-added services.” These “value-added services” will be less technology focused and much more in professional services, namely project and process management. Gaines does site specific technical skills like “data hygiene, migration and

analysis” as “becoming crucial for professional successful in the near future.” These particular skills, however, unlike project management, may not be needed at providers or law firms and corporations 365/24/7. Instead, these skills could be leveraged by contractors in moments where migration is needed to the cloud, deeper analytic analysis of data is desired, or data needs to be manipulated for particular cases.

Is RelativityOne the cause of a major shift in thinking and business dealings in e-discovery or just another vessel of the inevitable and ever-mounting move toward cost, infrastructure and overhead reduction for clients? The story of e-discovery is the story of constant cost reduction. As technology, hardware, software, office space and other corporal costs commoditize, something quite reciprocal happens to the talent. The people will once again become the most important element of the process, and clients will pay more money for better talent when they find themselves in any of the “why” situations listed above that cry for contract staffing augmentation. Exceptional contract e-discovery professionals will make top dollar, because clients in pain will pay for experience, especially as they start to pay less on technology and no longer have to retain talent full-time.

With RelativityOne, clients will be able to create “instance-based” workspaces, as opposed to having to commit to infrastructure, licensing fees and third-party vendor markups. So if data and case work are shifting from enterprise (or even SaaS models) toward event-based storage and technology utilization, why shouldn’t the exact same strategy be applied to the talent working these projects? Adoption of the cloud did not happen systemically across the legal community because the technology was not ready (is not ready). But it will be soon—very soon. On the other hand, the talent in e-discovery is absolutely ready to move toward contract work. The talent wants it (see Part One and Two), the clients are becoming aware this is an option, and our culture as working Americans is trending toward a climate of comfort and mutual profitability around a strategy of contracting.

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