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RESISTANCE IS FUTILE: BDO'S GEORGE SOCHA WEIGHS IN ON THE SLOW ADOPTION OF LEGAL TECH

What drew you to BDO?

Of all the organizations I considered, BDO asked the best questions. As simple as it sounds, for me that was a strong positive indicator of how the folks at BDO approach problems, develop solutions and work together as a team and with clients. It was clear to me that the team takes a consultative, client-first approach and brings big-picture thinking to their engagements—an approach that I really appreciate. I also was impressed with the high value placed on collaborative work in a supportive environment—a key qualifier as I contemplated making the transition from independent consultant to member of a larger organization.

You were a litigator for almost two decades. What prompted your switch to e-discovery?

I fell into e-discovery accidentally. In high school I spent an inordinate amount of time writing code, but in college and after—I served in the Peace Corps in West Africa—my attentions were focused elsewhere. After my service, I returned to the States and realized the world had changed while I was gone: PCs had become popular. I dove into that world but also entered law school, a realm PCs had not yet penetrated. While in law school, I developed a matter management system for Cornell's Legal Aid Clinic and for my third-year project built a prototype decision-tree system to help practitioners navigate the New York State social services system. I brought that interest in using technology to enhance the practice of law to my subsequent practice as a litigator. When e-discovery issues began cropping up in the early 1990s, I was the lawyer at my firm assigned the task of figuring out how to deal with this new issue. At first I resisted, but—spoiler alert—by 2003 I left a position as a law firm partner to pursue e-discovery full time.

We frequently hear how the legal industry is resistant to adopting new technologies—especially when it comes to e-discovery. What's your take?

One word: precedent. For three years in law school, we are taught to look to the past. We are taught that for laws and legal processes to work well, they must be predictable—that past performance should be indicative of future results. We are taught that to persuade judges to adopt the positions we advocate, we should point them to what other judges have decided before—not ask them to do something novel. This training makes sense in many ways, but an unfortunate consequence is that by focusing too much on solutions from the past, we tend to forget to consider new ways of solving problems old and new. Fixed on the past rather than turning our sights to the future, we resist.

I don't mean to sound all doom-and-gloom. Resistance is, as they say, futile. A wealth of technologies and techniques are available today for dealing with e-discovery challenges. Their number and sophistication will only continue to grow. Providers such as BDO are in the thick of it as well, developing and delivering yet better ways of handling those challenges and converting crisis to opportunity. Most importantly, a small but increasing number of attorneys and support staff in law firms and legal departments are turning to those tools, techniques and organizations to improve how they respond to e-discovery challenges.

George Socha is a managing director in BDO Consulting's Forensic Technology Services practice. Named an "E-Discovery Trailblazer" by The American Lawyer, *he assists corporate, law firm and government clients with all facets of electronic discovery, including information governance, domestically and globally. George has served clients in a variety of industries including pharmaceutical, energy, retail, banking and technology, among others. As a renowned industry thought leader, Mr. Socha has authored more than 50 articles and spoken at more than 200 engagements across the world on a variety of e-discovery topics. His extensive knowledge has also been utilized more than 20 times to provide testimony.*

Co-founder of the Electronic Discovery Reference Model (EDRM), a framework that outlines the standards for the recovery and discovery of digital data, and the Information Governance Reference Model (IGRM), a similar framework specific to information management, George is skilled at developing and implementing electronic discovery strategies and managing electronic discovery processes. He can be reached at.

While you have made small changes to the Electronic Discovery Reference Model (EDRM), it has remained fairly consistent since you first introduced the diagram back in 2006. Why is that? Are there any big changes on the horizon?

The original EDRM was designed to be a conceptual model of the e-discovery process. It was meant to be a reference model, a framework of nine major, interconnected components that various entities could use to better understand what they needed to do with respect to e-discovery. We have changed the diagram a few times over the years. Most notably, we changed the name of the left-most component from "Records Management" to "Information Management" and then to "Information Governance," and changed its shape from a rectangle to a circle to better tie the EDRM framework to the Information Governance Reference Model (IGRM) framework. The overarching e-discovery concepts, however, have not changed.

What has changed is not the diagram but rather the amount of data we need to address. This includes the complexity of that data and the various forms it takes, and the pace at which it is generated, i.e., the volume, variety and velocity of data. This means that at every stage and facet of the EDRM and IGRM diagrams, the challenges are more complex.

What also has changed is a concern about and emphasis on privacy and security that was not there when we published the first version of the EDRM diagram in 2006 and launched what is now IGRM in 2009. That is why we added a new wedge on privacy and security into the IGRM a few years ago. You can't think about e-discovery and information governance without also considering data privacy issues—both from a legal and technical standpoint.

My co-founder, Tom Gelbmann, and I are also excited to announce a new partnership with Duke Law School, which has acquired EDRM. EDRM will now have an institutional home, ensuring its vitality and continued growth under some of the best legal minds. I'll continue to stay involved with EDRM and e-discovery education in an advisory capacity.

Of all the e-discovery issues, are there one or two emerging areas in particular you think companies will focus on in the near future?

One of the biggest e-discovery opportunities I see is the growing use of data analytics in e-discovery. This is, I think, the future of e-discovery. In my short time here at BDO, I have been surprised and delighted with the data analytics skillset, experience and understanding BDO brings to the table. It is, I think, the area I most look forward to helping BDO develop even further.

One of the biggest e-discovery concerns expressed by end users—those who foot the bill—is the unpredictability of cost. They want and need to have a better idea of how much they likely will spend on e-discovery. BDO has developed models that have been very well received by our clients, but we need to develop them even further. I will be part of the team here at BDO that continues to tackle this vexing problem.

What do you see as the role of technology in e-discovery?

As my late great friend Browning Marean was fond of saying, technology got us into this mess and technology will get us out of it. The tools for dealing with e-discovery demands keep improving and, as Browning said, they can help us get out of this mess. But tools by themselves are worthless, no matter how good they might be. We should all aspire to good tools used by excellent people following sound, efficient processes.

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