



The Predictions Webinar 2023



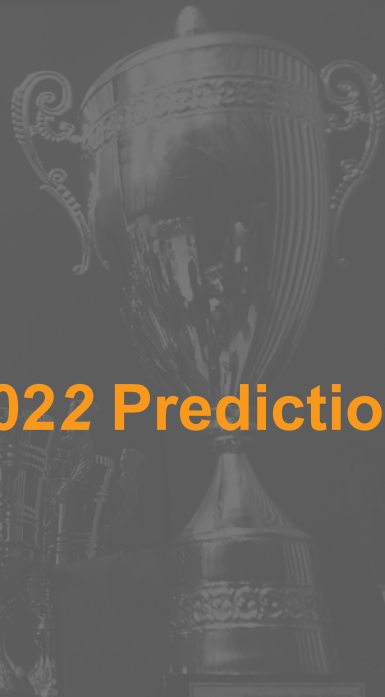
David Horrigan
Discovery Counsel and
Legal Education Director



Stephanie Wilkins
Editor-in-Chief,
Legaltech News

Today's Predictions are Made by the
Individual Participants and Not on Behalf
of their Organizations.

The Award for Best 2022 Prediction



The federal courts will find a way to continue Zoom conferences even after the Coronavirus Aid, Relief, and Economic Security (CARES) Act* exemption expires.

and

“TAR will still not be used as much as it should be.”

Honorable Andrew Peck
*Senior Counsel, DLA Piper, and
Retired U.S. Magistrate Judge*



Predictions for 2023

Data v. Documents

In 2023, I think (and hope) we will begin shifting our paradigms for e-discovery away from documents and toward broader concepts of data, information, and content. Our systems and processes continue to revolve around “documents,” but a large portion of relevant information is certainly not a document as we would traditionally consider it. Nevertheless, we **shoehorn modern data into document-like formats** – converting to TIF is akin to creating “**fake paper**,” and arbitrary unitization of chat data into 24-hour chunks and the like is creating “**fake documents**.” As the industry accepts and encourages different notions of information analysis and production, there will be a greater call for new standards and innovative technologies that support deeper, more flexible analysis of modern data types.

Martha Louks

Director of Technology Services



Blockchain Evidence Will Be the Next Big Challenge for eDiscovery Professionals: The FTX cryptocurrency bankruptcy and subsequent litigation, along with the fact that at least five other cryptocurrency exchanges failed in 2022, is forcing discovery of blockchain data to the forefront. **Let's see lawyers try to push those blockchain transactions into the "document paradigm" that they tend to force everything else into!**

Doug Austin
Editor



Access to Justice

The justice tech ecosystem will continue growing rapidly. We already see a lot of traction and the sector will continue to gain momentum in 2023, with a significant increase in solutions addressing access to justice-related challenges for consumers. The scope is daunting—the **US is ranked #126 of 130 countries when it comes to affordability of access to the legal system**, and in at least 75% of matters, at least one party is self-represented—but technology can and should be part of the solution. In short, investors should take note: There is tremendous opportunity for both ROI and positive impact.

Maya Markovich
Executive Director



In 2023, **legal regulators must reassess their roles** as top-down risk assessors and use their authority to shape and drive value into the nascent legal tech market **in a way that fosters access to justice innovations**. It is also time for regulators to boost their own legal tech capability to drive innovation in the public system (courts and community legal centers), rather than rely on the private sector to develop solutions.

Bella Ridout

Associate

PwC Australia



e-Discovery and Artificial Intelligence

The spike in defensible authentication and proportional collections will continue to trend upwards as it relates to emerging data sources. **Generative AI** and new categories of endpoint devices will continue to challenge traditional e-discovery assumptions and workflows. With the **deepfake tools** available today, for example, it's increasingly simple to falsify evidence, and **there's going to be an increase in digital forgeries that will need to be examined and verified by digital forensics experts.**

Jerry Bui

Managing Director



Dealing with large data sets such as video is still a challenge. Collecting, analyzing, reviewing, and producing video is a huge undertaking due to the size and complexity of the content. **Utilizing artificial intelligence will be an important way to enhance the overall process when video is used in investigations, litigation, and other regulatory matters.**

Nicholas Wittenberg,
Specialist Leader
Deloitte Transactions and Business Analytics LLP



It's no secret that **eDiscovery will see a continued growth in areas of AI and machine learning**. However, I also think we will see a higher level of adoption and usage. As technology continues to advance, AI and machine learning will be a necessary component of the eDiscovery process. As a result, **lawyers and professionals in this space will have no choice but to adapt and adopt**. The rise in **chats** and alternative communication platforms alone are creating new challenges and we, as eDiscovery experts, will once again be called to rise to the challenge.

Kristin Sunderman

Litigation Support Director
Legal Division



Inclusion, Diversity, and Belonging

Given the need for a pipeline of talent in eDiscovery and legal tech that will come from an increasingly growing Gen Z workforce focused on inclusion and belonging, **companies will need to continue to invest in DEI efforts.** As numerous reports show an inclusive workplace is frequently one that is more productive and engaged and of course profitable. **DEI efforts will need to or continue to be raised within organizations and treated as a corporate objective with quantifiable results** for which people are held accountable — just as they are for completing other work objectives linked to corporate strategy.

Maribel Rivera

Marketing Consultant and VP of Strategy

Association of Certified E-Discovery Specialists



International Perspectives

My prediction for 2023 is that **we will see more lawyers on the wrong end of negligence claims and professional embarrassment over failure to identify and pursue the evidence in electronic devices.** At the end of 2022, false accusations were uncovered thanks to a painstaking examination of a person's devices and data. **As the line blurs between technology used for business and for personal use, so will we see discovery techniques developed for commercial disputes increasingly applied to personal activities.** That in turn should make lawyers aware that every case requires enough technical knowledge at least to consider a wider range of data sources than hitherto, and to seek help if necessary.

Chris Dale

Founder

eDisclosure Information Project



The number of reported discovery decisions in Ireland is dropping. I attribute it to judges pushing back and saying, “I don’t have the time or the resources to deal with your discovery row, so I expect you to sort it out,” and parties are doing that. I think that’s good, but I also think it has a disadvantage in that we’re not seeing evidence of many of the issues that are coming up, and we’re not seeing how they’re worked out, which I think is a shame because it gives a gap in the guidance, but it’s an interesting trend.

Karyn Harty

Partner

Dentons Ireland LLP

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The Economy

I optimistically and enthusiastically predict that 2023 will see growth in e-discovery, information governance, and legal technology in general. **The so-called recession we are heading into won't be much of a recession at all, because, if you look closely at the economic factors that typically define a recession, we simply and fundamentally are not there.** Just because the media and financial pundits say we're heading into a recession does not make it true.

Michael Quartararo

President

ACEDS and Professional Development



Despite the controversy surrounding it, crypto will make a big comeback in 2023.

Adam Weiss

Chief Administrative Officer and Chief Legal Officer
Relativity



The 2023 Celebrity Prediction with Juan Ramirez

The first Robot reviewer will emerge this year and will run on **ChatGPT**

and

Prince Harry will become the CEO of **Twitter**

Juan Ramirez

Founder



Business of Law

More ESI professionals will successfully begin the matriculation over to data protection & privacy in order to break into corporate positions and shift professionally from case impacts to institutional ones.

Jared Coseglia

CEO and Founder



TRU STAFFING PARTNERS
CYBERSECURITY, e-Discovery, AND PRIVACY STAFFING



In-house legal teams will continue to become increasingly sophisticated consumers of legal services and legal technology so law firms and providers fueling digital transformation will elevate their offerings and deliver premium customer service in response.

Ari Kaplan

Legal Industry Analyst

Principal, Ari Kaplan Advisors



2023 will be the year companies invest or re-invest in their Information Governance (IG) programs. With the rollout of new technologies, impact of emerging technologies, ever-changing privacy landscape (in the US and globally) and increased cyber threats/attacks, **having your 'digital house' in order will be critical.** I anticipate companies tightening up **retention policies**, updating policies to address the 'new' legal landscape and devoting resources to **data remediation** to reduce that unnecessary digital footprint.

Scott Milner

Partner

Morgan, Lewis & Bockius LLP

Morgan Lewis



Data Sources

We will continue to see RSMF slicing disrupt text message review. It is dramatically faster (from attorney billable hours), extremely user friendly, and offers incredible versatility for responsiveness/privilege classification. The old days of either reviewing tens of thousands of text messages on a spreadsheet (oh my!), or as loose individual documents (no) is over. Relativity has solved a major pain point for document review. It is literally faster, cheaper, **and better** – the unicorn trifecta.

Philip Weldon

*Director of eDiscovery & Litigation Support
Technology Kaplan Hecker & Fink LLP*

KAPLAN HECKER & FINK LLP



Certainly, this year will bring more attention to **non-traditional data sources**, issues about how best to preserve, filter and collect needed data from those new sources, and further technology advances to help accomplish all of the above; but **data privacy and data breach risks** are also increasing, especially with the continued proliferation of data and the move to more **remote work**. I predict that we will see one or more big scandals in 2023 surrounding unauthorized breaches or leaking of confidential litigation documents. While there is no foolproof way to be 100% protected, those of us in the e-discovery industry—and our clients—must be vigilant and do what is practical in terms of data safeguards, training, vetting providers, background checks of reviewers, filtering, redacting and/or encrypting sensitive information, obtaining protective orders, and being careful about how and to whom we produce confidential data – remembering that the chain of data protection is only as strong as its weakest link.

David Cohen

Partner and Records and E-Discovery (RED) Group Chair

ReedSmith



The Legal Associations

The eDiscovery community will be looking to do more with less in 2023. Look for business model disruption, and advances in things like cross platform email duplicate identification. **Our facility with AI and machine learning will be stretched from unstructured data into structured data** to incorporate litigation, regulation and enforcement ESI for the unraveling of the FTX contagion as well as the causes of reportable cyber and privacy incidents.

Mary Mack

Chief Executive Officer



2023 will be the year that Litigation Support and Information Governance cement their relationship. The explosion of Microsoft Teams in the practice of law is driving this. Every new application that introduces data needs to be considered by Information Governance, which in turn drives preservation, collection, and production.

“In 2023, kindness will prove to be the single most important trait for people we hire, develop, and retain.

Joy Heath Rush
CEO



Thanks for Joining Us!

For additional reading:

The Legaltech News Predictions Series

The Relativity Blog