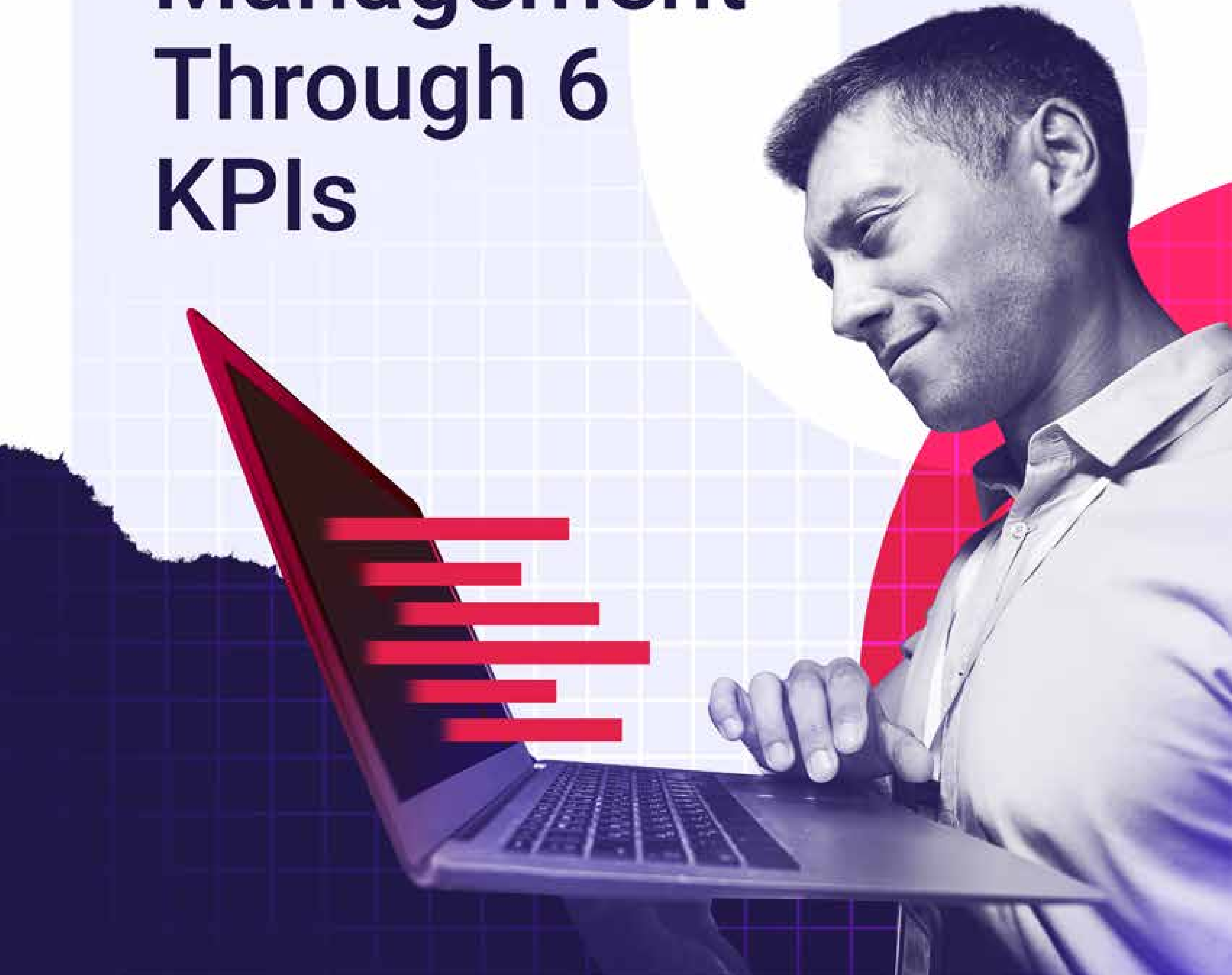
UnitedLex

Optimizing Litigation Management Through 6 KPIs



Imagine what corporate leaders could gain with data that empowers them to make better decisions about each matter—leveraging metrics to find the right information faster and at scale across their litigation portfolio.

Effective use of key performance indicators (KPIs) during litigation gives corporate leaders the data they need to make these decisions: decisions that increase the efficiency of the litigation itself and business outcomes around litigation spending. Understanding these key KPIs provides a way forward for leaders to gain 30-50% in financial savings while building best-in-class litigation management programs.

While the focus here is on corporate benchmarking, law firms can play an active role with their clients to engage in these decisions as well as deploy KPIs within the firms themselves. Taking a consultative, fact-based approach across the board optimizes litigation management no matter who is involved from rapid value projects (RVPs) to long-term strategic builds, focusing on these KPIs will move litigation strategy and spend in the right direction.

Many legal stakeholder focus on the amount of data processed instead of how that data can help them make better business decisions.

6 KPI Metrics That Matter

Legal practitioners, both in-house and in private practice, are well aware that litigation costs are steadily rising. These costs frequently constitute the largest line item in the corporate law budget of Fortune 500 companies, but it is often less obvious precisely where and how all those budget dollars are flowing. Without reliable data collection and analysis during the various phases of litigation, it is difficult to identify the critical steps necessary to increase efficiencies and cost-effectiveness.

The following six (6) KPIs provide law departments with a clear view into their litigation processes which they can leverage to strategically manage litigation resources, including costs and time spent by company employees and outside attorneys:

1. Preservation Compliance
2. Data Reduction
3. Data Relevancy and Re-Use
4. Review Accelerators
5. Workforce Optimization
6. Litigation Management

Identifying and managing KPIs throughout litigation allows legal leaders, whether in the legal department or the C-suite, to constantly optimize all phases of litigation and gain ongoing efficiencies, both procedural and financial, at scale. They can use KPIs to drive internal litigation management decisions to achieve the best outcomes for the company.

Benchmarking KPIs During Litigation & Beyond

Many of these KPIs are foundational and apply to the litigation portfolio as a whole, rather than being specific to any one litigation matter. But tracking them during a single matter can help departments achieve greater efficiency across the board.

As part of assessing the performance of litigation processes end-to-end, legal departments must utilize KPI assessments and benchmarks to define and identify areas of high risk or cost. Benchmarking provides valuable insights regarding where to optimize and improve the different stages of litigation, from the cost and timeintensive process of discovery to assessing the likely effectiveness of dispositive motion practice to late-stage trial preparation.

Litigation management benchmarking scores the state of each separate function, measuring the level of program maturity and optimization. In particular, benchmarking can inform in-house legal and management staff about whether:

- the litigation team is aware of the function
- the process is well defined
- the function is adequately managed and monitored
- the process is currently repeatable
- the process is optimized and well-integrated into the overall litigation management program

A Deeper Dive into the 6 KPI Metrics That Matter

Currently, many legal stakeholders focus on the amount of data processed instead of how that data can help them make better business decisions throughout the litigation process itself. In doing so, companies waste valuable time and resources on less impactful analyses. The downstream effects of time spent sifting through volumes of data or negotiating the lowest price per hour do not have the same highvalue impact as optimizing workflows to measure efficiently what information matters the most.

As companies focus on digital agility in the wake of ever-increasing data volumes, process optimization, and technology, deploying these six (6) KPIs to support litigation management is the key to success. Determining what should be measured and quantifying it rigorously and consistently over time allows for a holistic approach to the process.

These KPIs address several critical areas of litigation optimization at a foundational level. Each different area can be tracked and measured, giving managers visibility into what is—and is not—being accomplished. Deploying one or a few of these goals will move the dial in the right direction. Deploying all six (6) KPIs will create a holistic, programmatic approach that leads to efficiency gains and cost savings across the board.

To get started on the journey, we typically recommend a phased approach. The timeline for each phase is determined by the business's starting point and priorities, with opportunities to fast track optimization and see success in measurable milestones throughout.

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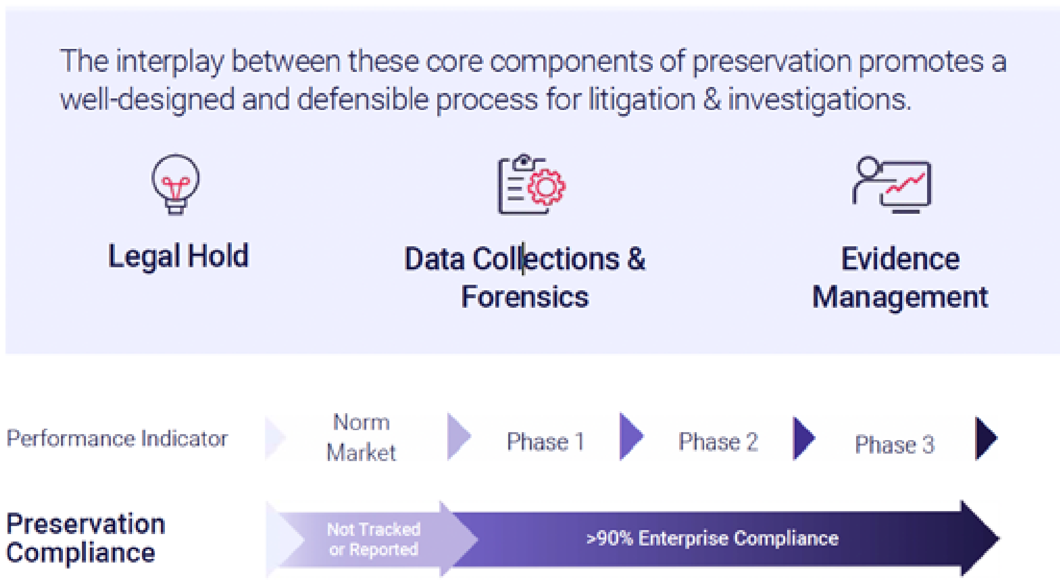
Performance Indicator	Norm Market	Phase 1	Phase 2	Phase 3
Preservation Compliance	Not Tracked or Reported	>90% Enterprise Compliance		
Data Reduction	75%	85%	90%	95%
Data Relevance & Re-Use	20%	40%	60%	80%
Review Accelerators	10%	20%	30%	40%
Workforce Optimization	US Only	Americas/ EMEA/APAC Hybrid		
Litigation Management	Anecdotal Evidence	Data-Driven, Actionable Insights		

1. Preservation Compliance

Managing data collection at the onset of litigation is often one of the most resource intensive tasks for in-house legal departments. Regrettably, it can also be one of the most inefficient in terms of both time and costs. The traditional standard in discovery was to conduct full collections by replicating all accessible data from every digital device and business application. Unfortunately, repeated collections over time caused data volumes to rapidly soar, driving up costs and creating an unnecessary risk of over-collecting unneeded data.

Rather than beginning at the collection stage, law departments should measure preservation and compliance KPIs starting with litigation holds put in place at the start of a matter, before discovery. Even though issuing legal hold notices is commonplace, monitoring custodian compliance is often ad hoc and there is a tendency to over-collect rather than tailor collection to the hold. Additionally, organizations often view preservation as simply as a tollgate, not as an opportunity to gain early intelligence about their matters or data.

Viewed holistically, effective preservation compliance KPIs can assist litigation managers in identifying relevant custodians, determining how well those custodians comply with preservation and collection obligations, assessing the timeliness of collection, and evaluating whether collections are ineffectively over or under-inclusive. Managers can then tailor future preservation and collection efforts more narrowly, replicating only those specific directories, business applications, and repositories that contain relevant information within the timeframe important to the litigation. Well-targeted, narrow, search-atsource collections take less machine time to execute, provide meaningful insight to data landscapes, and enable speed to data by reducing the overall volume of records to be processed and ultimately reviewed.



KPI: Measure preservation compliance holistically. Build a program with KPIs that tracks enterprise legal hold compliance, completeness of collections, and efforts to leverage preservation as an opportunity for early case intelligence.

2. Data Reduction

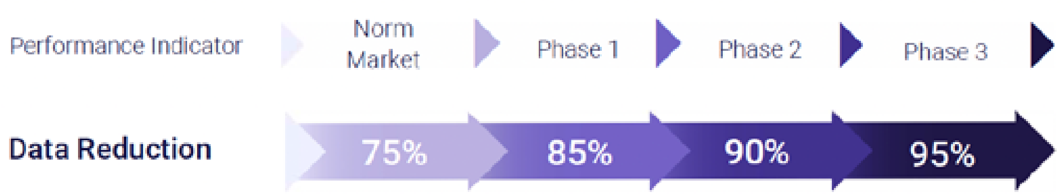
The seemingly impossible deadlines in litigation discovery can often encourage speeding from collections to the document review stage as quickly as possiblebut at what cost? By encouraging significant data reduction and focusing on KPIs directed at technology and process-driven data culling a targeted and highly relevant promotion set can be determined before the review begins -- without sacrificing critical deadlines and creating significant cost savings throughout the life cycle of discovery.

To achieve maximum cost-benefit and the lowest reasonable data volumes, it is necessary to use more sophisticated tools that categorize and gather documents specific to the case while defensibly excluding unrelated materials. Traditional culling tools involve running a set of search terms against an entire data set typically reducing the number of documents by 70-75%.

Advanced culling technology provides key data reduction strategies that leave a rich population of highly relevant data for immediate analysis by counsel—leading to more time to prepare for the critical stages of litigation and closer to a 90% data reduction before review so that only 5-10% of the documents are promoted. For example, these tools may analyze communication between witnesses, assist with building case timelines, identify key documents earlier in the process, and provide search term analysis and refinement before agreements have been made in court.

Over time, data reduction KPIs drive toward perfecting and measuring these culling methods to reduce the total amount of data hosted and reviewed. By merging in-dustry-leading tools with custom processes, organizations can achieve significant speed to legal intelligence while reducing data volumes, which is overall indicator of program health and cost savings.

Technology has moved beyond traditional culling methods of only using search terms and date ranges.



KPI: Reduce data by 90% or more by utilizing culling tools and substantive matter consulting to decrease the number of documents promoted to review.

3. Data Relevance & Reuse

How many times has the team processed the same data from the same custodian for a different matter? How often is that data restored for each matter, resulting in double or triple payments for the same information? Tracking all data at the doc-ument fingerprint level source can help determine potential relevancy to multiple matters, avoid the cost and time of reviewing or recollecting duplicate data, and the risks of potential spoliation. After all, if a document is privileged in one litigation, in all likelihood, it will be in others. So why spend additional effort and money on reviewing and coding the document?

Creating an intelligence repository as a data lake across matters can provide a mechanism to reuse data and repurpose analysis in previous cases. Was it used or marked privileged? Was it adjudicated on in a case? Was it reviewed thoroughly by inside and outside counsel? Tracking these decisions at a document level makes each document more valuable as data.

Program-level tracking can assist in quickly determining the potential for data reuse, even for matters requiring collections spanning many years, or for key company officers that can be difficult to collect from. Data reuse will save the cost of re-collecting or re-processing the same data while avoiding potential disruption to critical stakeholders that can be subject to multiple litigations. These measures identify relevant data for reuse and increase the overall responsiveness rate for matters.

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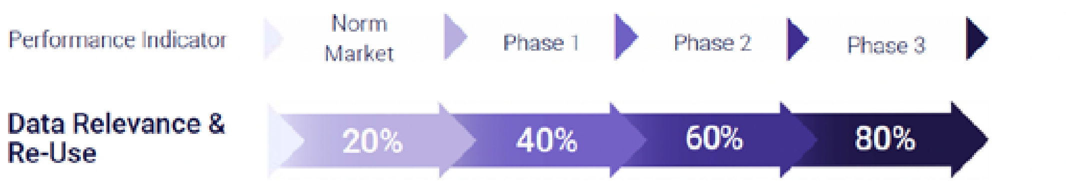


KPI: Use workflow and technology tactics to increase data reuse and move toward a target reuse rate of 80 percent.

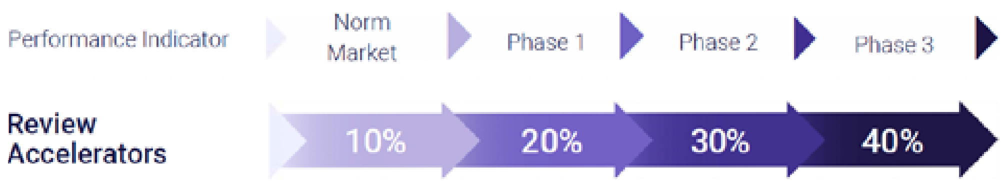
4. Review Accelerators

Legal teams should use every tool available to simplify litigation processes, especially resource-intensive tasks like document review. KPIs can inform the legal team how effective each tool is and which tools will provide the most benefit on an ongoing basis. It is not a one size fits all approach but a consultative discussion to pick the right solutions for company data, litigation profiles, and each individual matter.

Technology-assisted review (TAR) is one such tool with multi-uses from predictive coding to propagation to structured and conceptual analytics. Using artificial intelligence within document review and coding workflows can help identify the most relevant documents in a litigation and be a valuable tool on the front end to help pre-screen large data sets. It can also be used as a valuable tool on the back end to perform quality control checks, name normalization for privilege screens, and timeline/communication analysis for trial preparation.

With these advanced tools in place, litigation managers can shift from more traditional discovery KPIs like documents reviewed per hour (DPH) by attorneys to more meaningful measures of cost-efficacy, for instance, the percent of documents eliminated during first-pass review that does not require further investigation.

Move beyond traditional measures, like documents reviewed per hour (DPH), to evaluate success.



KPI: Integrate Technology-Assisted review and other advanced review analytics to measure the number of documents that can be effectively eliminated from first pass review in a typical litigation.

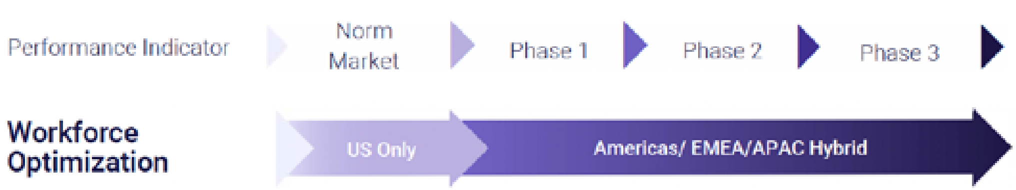
5. Workforce Optimization

To achieve the highest resource efficiencies during litigation, managers should apply the right resources to the right tasks at the right times. Sometimes this means using tools to ease (and limit) tasks attorneys or paralegals must do. And other times, it means applying resources at different locations during different parts of the business day.

It is increasingly critical to take a global approach to discovery, using what is colloquially known as a "follow the sun" model. Simply put, a follow the sun methodology allows companies to have 24-hour litigation support, all within standard business hours for the people involved. Clients have continuous support from the review and technical teams, which can be extremely beneficial when important needs arise during a matter. Additionally, by leveraging skilled legal reviewers in multiple geographies, companies can take advantage of competitive local rates, which is key to reducing overall cost.

Managers can then consider optimizing future litigation by considering ways to automate the assignment of work efforts to lowest cost region by task, which allows them to build better budgets and times as they move forward.

Use Continuous Active Learning (CAL) to automate assignment of work efforts to lowest cost regions, leveraging multiple time zones to accelerate workflows.



KPI: Utilize a global approach to discovery, maximizing local rates and time zones to control costs and increase speed to data.

6. Litigation Management

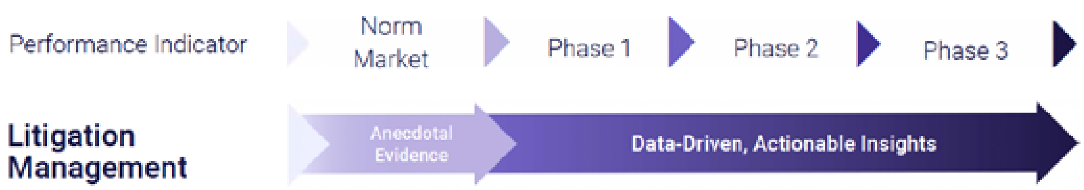
KPIs are a necessity for efficiently and effectively managing the legal and business aspects of litigation. Well-crafted KPIs will enhance performance and decrease costs at the program level, in addition to improving outcomes in specific matters. Overall, this approach transforms legal from being viewed as a cost-center into a true business partner.

Data-driven historical trends, including internal matter performance and external counsel and judicial analytics, should be leverage alongside current KPIs to:

- Improve ECA valuations, matter budgets, outcome predictions, and reserve(s) allocations
- Evaluate cost and performance of outside counsel as part of law firm panel-management
- Drive selection of the most effective counsel for a particular matter
- Control discovery, motion, & trial expenses
- Improve legal outcomes by analyzing past performance of legal arguments,

Utilizing robust KPIs will allow your in-house trial teams, Legal Operations group, and General Counsel to make the most effective business decisions at every stage of litigation and across your entire litigation portfolio.

Imagine what corporate leaders could gain with data that empowers them to make better decisions about each matter.



KPI: Go beyond anecdotal evidence and measure the adoption of data-driven analytics to make better decisions across the portfolio and achieve actionable business insights.

KPIs provide a framework to determine how effectively a company is meeting crucial business objectives.

Real-World Impacts

Determining litigation benchmarks and integrating KPIs into the litigation lifecycle are critical and effective steps to making informed decisions and tracking results. It is not an all-or-nothing process but rather a strategic build that can be done in whole or implemented in stages.

Regardless of the industry, legal teams can transform their delivery by focusing both on the current status and desired outcomes to build a right-sized program that suits their needs. By starting with an assessment phase to benchmark current processes against the KPIs discussed above, stakeholders will be empowered to design an enhanced program and execute an agreed-upon framework while maintaining total visibility and oversight. This model has been proven across industries and client initiatives

Consider this real-world example:

Discovery Program Management

Facing a rapidly growing litigation portfolio, the CEO of a multinational medical equipment manufacturer tasked the legal department with reducing spend by 10% in 12 months. At that time, legal was unable to distinguish litigation or discovery spend from overall department expenses and was suffering from a dysfunctional integration between internal HR, IT, and risk teams.

Engaging an end-to-end legal services provider, the company identified areas of risk and opportunities for cost savings, as well as benchmarked their current discovery processes against industry standards and best practices. Benchmarking current processes using KPIs also enabled the team to establish baseline metrics to track year-over-year goals and implement specific recommendations for future action.

Based on this strategic action plan, the company was empowered to make more informed decisions to better manage litigation and control costs. First, the team took a more strategic stance toward preservation, including implementing a custodian interview program to better target collections and gain early litigation intelligence. After collection, the team leveraged consultant-led data reduction methods to achieve an average 97% cull rate before engaging a document review team. For document review, their strategic action plan called for a right-shore review model (leveraging off-shore resources to the extent possible), while establishing knowledge management mechanisms to reuse privilege coding and guidance regardless of where the review was performed. These steps, as well as utilizing analytics and advanced workflows, led to an increase from 10% to 40% in the percent of documents that could be effectively eliminated from first pass review in a typical litigation.

These data reductions and increased efficiencies from the strategic action plan were tracked on a real-time basis and were transformative in reducing cost. The company achieved a seven-figure reduction in six months and exceeded the 10% cost savings goal in less than 12 months.

Conclusion

In numerous success stories like this, legal departments leveraged KPIs to measure effectiveness and then manage litigation workflows. The ability to track and review metrics from specific KPIs provides law departments with visibility and control to make more informed business decisions. Using advanced digital technologies and data from activating KPIs throughout the litigation process can work as a force multiplier for cost savings across litigation portfolios which ultimately will have a positive impact on the business.

With unpredictable and rising costs, litigation is one of the largest line items in the corporate legal budget. By quantifying your legal spend and establishing key cost and efficiency metrics—not simply reducing billable hours and unit rates— corporate leaders can transform how data is procured, delivered, and used to support their overall litigation strategy.

By combining technology, legal expertise, and process innovation, companies can build datasets that help better manage litigation—now and in the future. As a result, these enterprises achieve lower total costs and higher operational performance throughout each phase of the litigation, investigation, and regulatory lifecycles, bringing the 30-50% cost savings within reach.

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About UnitedLex

With more than 3,000 legal, engineering, and technology professionals globally, UnitedLex enables legal organizations to thrive in the Digital Age.

Over the past 15 years, we have successfully delivered eDiscovery, Source Code and Document Review, IP Monetization, and Contract Management Improvement services to over 25% of the Global 500, 30% of the Fortune 50, and 50% of the Am Law 100.

Contact UnitedLex to learn more about transforming your Corporate and Contracting Solutions, Intellectual Property, or Litigation and Investigations functions and our broader programs for Digital Legal Transformation.

For more information, please visit www.unitedlex.com.