

A photograph of a clear glass incandescent lightbulb lying on its side on a dark grey chalkboard. The lightbulb is unlit and has a visible filament. On the chalkboard, several white chalk circles of varying sizes are drawn, some overlapping. The background is slightly blurred, showing what appears to be a stack of papers or a notebook.

The question is always “Why?” When I left a fulfilling in-house legal position at a giant in the global aerospace, defense, and security industry for a role on the executive management team at Compliance Discovery Solutions, I confounded many of my friends and colleagues. “Brian,” they asked, “why would you leave a great job with a major company for an eDiscovery & Managed Review provider?”

I had worked extensively with Compliance in my previous role, and was always impressed by their best-in-class service. This paper explains why I wanted to be part of their eDiscovery team, and why the real question isn't why *I* made the transition to Compliance as a team member, it's why haven't *you* as a client?

**Why,
more than ever,
eDiscovery
success rests on
sourcing the
best service.**

Brian Moretti

Introduction



*Brian Moretti,
CEDS*

About the author

Brian Moretti has 18+ years of legal experience focusing on the development and implementation of Corporate eDiscovery processes based on providing a consistent, repeatable & cost effective approach to legal discovery. Now, as the Senior Corporate Development Consultant of Compliance Discovery Solutions, a System One Company, he is part of the executive management team responsible for leveraging Compliance's strong history in the managed review arena and enhancing its Discovery Services offering. In 2014, Brian earned the Association of Certified eDiscovery Specialist by successfully demonstrating core competencies & essential knowledge in the electronic discovery field.

Brian joined Compliance, a pioneer in managed review delivering success on demand through an innovative suite of legal discovery solutions in 2015. His hire coincides with Compliance's push towards a technology-driven managed services approach. As Senior Director Corporate Consultant at Compliance, Brian translates client needs into effective, well-managed projects that can exceed expectations.

Throughout my career, I've witnessed an ever-evolving legal industry through multiple lenses: that of the law firm, corporate legal, and now service provider perspective. As an 18-year legal veteran, I've closely engaged with Fortune 500 clients on diverse legal matters across all phases of the litigation and compliance process, and have never felt more confident in my solutions oriented approach than I do now with Compliance Discovery Solutions. My relationship with Compliance began years ago, dating back to my time at GD&C, as the New York office Paralegal Manager, and more recently during my tenure at Textron Inc.

While at Textron, I served as the Enterprise eDiscovery Program Manager, where over my 9-year tenure, I implemented and managed the company's in-house eDiscovery program. It was during this time that I gained expertise, among other things, in proper preservation practices, forensic collections tools and data processing software, as well a better understanding of foreign data privacy laws. While I do miss my former colleagues at Textron, I left with a great sense of pride and accomplishment -- Textron's in-house eDiscovery Program, through our workflow process and dedicated team, contributed savings of more than \$10 million dollars over 3 years across the Textron Enterprise. In addition, we built a consistent, repeatable, and defensible Discovery Program for all Textron business units.

From my training and experiences at Textron, I've come to appreciate that both law firms and corporate legal departments must maintain a fine balance between providing top notch legal advice and services to a company while also instituting effective legal cost control initiatives. In most, if not all companies, Legal is increasingly viewed as an internal cost center, thereby putting General and Outside Counsel under great pressure to control discovery-related costs. Confronting these challenges can prove difficult, especially when discovery continues to comprise up to 60% or more of litigation costs and data continues to grow. Sometimes, the discovery "war of attrition" can force a law firm or corporation's hand, even if it has favorable odds at summary judgment or trial. While both law firms and in-house legal departments have taken some steps to reduce these costs, cost control in discovery requires vigilance at every stage, as hidden costs incurred in one phase can minimize the savings realized in another.

That's why I'm proud to be a new member of the Compliance family. Our partnerships with companies and their outside counsel focus on delivering service with an eye towards the overall goals of efficiency, cost-control, and the bottom line results, encompass the many lessons I've learned in my professional journey. **The story of why I made the move to Compliance is far less intriguing than the reasons for you to join me on it.**

The risks remain great.

The eDiscovery industry has evolved, its technology has flourished, and more options have emerged to provide greater cost flexibility. Only one thing has remained constant: the risks and threats remain as serious as ever. In fact, in many ways, the proliferation of technology and data make today's risks even *greater* than before.

1

New and ever-changing forms of difficult-to-capture e-communications have proliferated.

These new forums can encompass everything from text and SMS messages to social media communications, but unfortunately most organizations lack the means to capture and produce such records in a timely way. Social media can be particularly problematic, blending business and personal, thereby potentially limiting access.

2

Skyrocketing use of e-communications has generated sky-high quantities of information.

With all of this information potentially subject to discovery, it must be captured, analyzed, and reviewed – all of which consumes enormous amounts of time, resources and money. Far from struggling to find records for discovery, most organizations today are frustrated by finding far *too many*. Many lack the resources and processes to keep up with the overwhelming amount of data.

3

With this proliferation of technology comes an explosion in the number of places data can reside.

Laptops, personal devices, company networks, cloud storage, third-party services: data that must be preserved and produced could be *anywhere* in today's world. You don't ever want to find yourself in a position where you discover data in an unexpected location, exposing yourself to potential accusations of spoliation.

4

The use of third-party communication and document sharing platforms has also exploded.

IT refers to these service providers as “*Shadow IT*.” It includes cloud storage services and web apps, and they make organizations overly reliant on sometimes unreliable third parties for eDiscovery. In fact, according to a survey by industry advisory firm Deloitte, only 9% – fewer than one in ten – of executives believe their companies are prepared to capture data stored on third party platforms.

5

IT and Legal don't communicate well, yet IT has never been more vital to the effort.

According to AlixPartners' 4th Annual Litigation and Compliance Practices survey, only 23% of legal respondents believe their IT departments understand the legal requirements for e-discovery “very well.” At the same time, only 23% of IT respondents “said their legal department understands very well the limits of what IT can do to support e-discovery.” Yet compliance relies on cooperation and mutual understanding.

6

Variability between cases can add complexity, and no one solution will work for every situation.

Another risk is failing to identify when to apply certain tools and technologies. Given that discovery can comprise 60% to 80% of a total litigation budget, it's key to understand which tools – be it analytics, predictive AI, simple keyword search, or any one of myriad other options – will help you cull down the data set without going overboard.

So what can you do?

If you don't approach eDiscovery knowing what you're getting into, and without reliable solutions and trustworthy providers, you could end up spending much more time and money than necessary and still fail to find everything you need. It's key to be agile when choosing the tools, technologies, and partners appropriate to the case.

"Savvy clients today are looking for more control over their eDiscovery spend and a simplified toolset on demand."

Ari Perlstein
Chief Technology Officer
Compliance DS



- 1 Select the right service delivery model for greater cost efficiencies.**
"Savvy clients today are looking for more control over their eDiscovery spend and a simplified toolset on demand," says Ari Perlstein, Compliance's Chief Technology Officer. Transparency and scalability are key; eDiscovery rests upon the organization's ability to analyze floods of data efficiently. Pricing models, whether subscription-based or contractless pay-as-you-go, should also flex to meet your needs.
- 2 Use the best tools available to manage the complexity of eDiscovery.**
For example, AI-driven analytics can help manage increasing volumes of data. This gives clients "more visibility into their e-discovery data and better evidence for decision-making," says Perlstein, which is exactly the reason why Compliance has integrated Brainspace analytics into its Discovery-as-a-Service offering. Success is often about nimbly picking the tools and technologies that most closely fit the case's needs.
- 3 Ensure your provider has the infrastructure to match their promises.**
If your provider does not have the facilities to back up their service claims, they will fail you at some point. That's why Compliance invested in a failover data center that addresses rigorous demands for business continuity by assuring seamless access to data for processing and review. Data security is central; in addition to raw infrastructure, also verify that your providers are adequately vetted, certified, and credentialed.
- 4 Do everything you can to facilitate communication with IT.**
You must have ongoing communication with IT. Both departments understandably tend to be stretched thin – legal is a cost center, while IT is generally inundated with support, security or maintenance concerns. Focus on clear, constant communication that both sides understand. You can facilitate such communication by developing repeatable, defensible processes that make requests and interactions predictable for IT.
- 5 Fully assess each case and its needs early in the process.**
Part of any repeatable process must be early case planning. Identify the individuals and information sources key to the case, and then map out their data and where it resides. Do your due diligence and fully scope the case before eDiscovery starts in earnest. This is another area where tools like Brainspace can prove invaluable: they help users to understand what they're getting into to avoid unnecessarily inflating costs.

The ability to mitigate risks with tools and technology solutions tailored to each client—This is *WHY* I joined Compliance DS.

Compliance DS was founded in 1997 as a Managed Review provider; in the two decades since, it has evolved into a full-service, end-to-end eDiscovery technology and managed review provider in order to deliver to their corporate and legal clients the kind of service they were not getting from their current providers.

Even today, Compliance remains a boutique provider by design: small, agile, able to quickly make significant changes to generate cost efficiencies. Compliance believes that attentive service and custom consulting doesn't have to mean outlandish pricing. Similarly, low-cost doesn't have to result in a haphazard approach to delivery.

Yet Compliance competes head-to-head with industry "giants" because we have some of the most qualified and capable eDiscovery and Managed Review experts in the industry. Compliance finds the right balance in both realms in order to meet our clients' needs—all with personal attention through a dedicated and professional team of project managers.

We invest in you; with our approach, we work together. As I had learned and practiced during my time at Textron – the discovery process must always be repeatable and defensible while providing premier services at competitive rates.

Come join me on my journey—and never ask Why again.



Single-source legal discovery solutions, from the pioneers in managed review. Compliance offers truly scalable solutions, allowing your firm to achieve goals seamlessly and effectively. Discover the freedom to manage at a higher level.

The information contained in this paper is for generalized informational and educational purposes only. It is not designed to substitute for, or replace, professional business advice. Neither Compliance DS nor the author represent, warrant, undertake or guarantee that the use of guidance in the report will lead to any particular outcome or result. The views and opinions expressed in this paper represent the opinion of the author and do not necessarily represent the views or opinions of Compliance Discovery Solutions. **Copyright © 2017 Brian A. Moretti. All rights reserved.**

Brian A. Moretti, CEDS
Senior Corporate Development Consultant
T 212.792.8572 M 401.787.6288
bmoretti@compliancecds.com
www.compliancecds.com

