



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

April 7, 2017

The Honorable Jackie Winters, Co-Chair
The Honorable Duane Stark, Co-Chair
Joint Committee on Ways and Means, Subcommittee on Public Safety
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs Winters and Stark, and members of the Subcommittee,

Please accept this letter as response to a question raised by the Subcommittee during the Department of Justice's (DOJ) budget presentation on April 5, 2017.

Q1. What percentage increase have you seen in the work related to discovery?

A1. We do not track the work related to discovery separately from other work done by paralegals and attorneys, so we are unable to provide a measure of the increase. However, much of the increase is related to the greater use of emails over the past decade or so.

In civil litigation, when the State receives document production requests from the opposing party, we must respond by turning over those documents unless they are privileged or we have filed a motion limiting the request, which rarely occurs.

Formerly DOJ collected, evaluated, organized and produced documents on paper. All of those processes are now done with electronically stored information. We do not measure amounts by "boxes" anymore, but gigabytes. Senator Frederick asked about costs associated with processing a GB of information. Based on our experience, if a GB of information is simply pages of documents, 1 GB is approximately 3,000 multipage documents (about 5 boxes), or 20,000 emails. Review of a document, on average, takes about 1 minute of time. As a result, review of 1 GB, if it is simply pages of material, could take a paralegal about 50 hours. At that level, the client agency cost would be \$4,500 as paralegals bill \$90.00/hr. If the material is very complex, 1 GB could take a paralegal up to 300 hours to review, or \$27,000 at \$90/hr.

Due to the massive allocation of time and resources it takes to perform these tasks, we work with outside vendors to load these documents in to a software program designed for record review called Relativity. The DOJ has contracted with approved vendors in the past two years to assist in handling documents for litigation. DOJ now can send out the electronic data to vendors that load the information into Relativity and host that data on their secure cloud. The vendor applies filters at our request to reduce the number of documents needing manual review. For example, if they start with 1 GB of emails (approximately 20,000), the vendor can filter the emails to just

particular dates or particular senders or recipients. That 1 GB could be reduced significantly by use of that process. But, once that work has been done by the vendors, a paralegal still has to log in to Relativity and go through the documents individually. Due to deduplication and other filtering, that 1 GB can be reduced down to, say, 0.6 GB representing a 40% savings in paralegal review. DOJ can also use the Relativity tools to assist with review and reduction of data.

As a result, we make decisions of how to process the documents based on the amounts and kind of data we receive. Cases where most of the documents are paper or that do not have extensive electronic data are usually processed in house and do not require the use of outside vendors.

Many of our ordinary cases have between 10 and 20 GB of data. At the vendor stage, the initial processing cost for that amount of data can range between \$2,500 - \$10,000 depending on the document types that are in that data. Once loaded into Relativity and filtered, our paralegals then review the documents which can take 100 hours to review that amount of data.

A high volume case can have 100 - 300 GBs of data. Depending on the type of data that is in each of the gigabytes, the vendor cost can fluctuate greatly between \$12,500 and \$25,000. (However, there are outliers. For example, we recently had a case in which we had only 6 GB of data, but due to the complexity of that data, the vendor cost was \$32,000.) Then, our paralegal time in reviewing the sorted documents can range between 100 -- 400 hours.

In an extreme case, the costs can be enormous. The Linn County v State case involving timber revenue is one of those cases. We are processing 1,321 GB and have had to contract with a vendor to not only load and sort the data, but also provide contract attorney reviewers trained by our staff. The cost of that production, to date, is over \$250,000.

If we can provide additional information on any of these topics, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Frederick M. Boss". The signature is written in a cursive, slightly slanted style.

FREDERICK M. BOSS
Deputy Attorney General

Cc: John Borden, Legislative Fiscal Office