

ACC Value Practice:

Nelson Mullins' Encompass: National Review Counsel Services Using Project Management and Value-Based Staffing and Fee Structures

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Results, costs and efficiencies are top of mind for today's in-house counsel. With increased focus on value and right-sizing efforts, in-house counsel are exploring new ways of working with outside service providers and new systems and processes for delivering legal services, including unbundling and project management practices.

When it comes to discovery and document review services, there are many options. The national review counsel option is an approach that involves unbundling and centralizing the review component of litigation with a law firm that can integrate with in-house clients and case counsel and implement practices to conduct review and discovery in a manner that meets clients' and case counsel's needs.

Nelson Mullins' [Encompass](#), a division of Nelson Mullins Riley & Scarborough LLP, serves as national review counsel for clients that include Fortune 200 companies. This ACC Value Practice piece describes how Nelson Mullins' Encompass works with clients and case counsel to provide national review counsel services using project management practices and value-based staffing and fee structures.

NATIONAL REVIEW COUNSEL SERVICE ARRANGEMENT- KEY ELEMENTS

Key elements of the Nelson Mullins' Encompass national review counsel service arrangement include:

- Integrated, collaborative approach
- Relationship leader
- Dedicated review teams
- Value-based staffing practices
- Project management practices
- Flexible technology approach
- Metrics and reporting
- Value-based fee structures

INTEGRATED COLLABORATIVE APPROACH

Nelson Mullins' Encompass team members share that they work closely with in-house clients, case counsel and technology providers to plug into client processes and scale their review services. More specifically, the team:

- ***Integrates with clients-*** to understand their business and organizational structure, including their approach to preservation and collection, custodial base and case goals as well as overall litigation strategy
- ***Integrates with technology providers-*** to track data exports from clients to review vendors selected by clients, manage data processing to enable lawyer review, manage the review platform, train review teams on the review platform technology, provide relevant search queries, extract project metrics data and more
- ***Integrates with case counsel-*** to develop strategies to right-size the discovery burden consistent with overall case goals, develop review guidelines, collaboratively train review teams on guidelines, focus on bringing value to the client by advocating before the courts and with opposing counsel to advance the client's interests in streamlining discovery and review efforts

VALUE-BASED STAFFING PRACTICES

The service relationship is structured using value-based staffing practices: to help drive the right work to the right people and to partner with the client on the strategic service relationship.

Relationship Leader; Communications

To help ensure a focus on client value, the relationship is structured to include a Relationship Leader, whose role includes interfacing with in-house client relationship leaders and ensuring that services meet client needs.

Communications practices are key and include:

- ***Monthly e-discovery strategy meetings-*** usually 1 hour by phone or in person
- ***Weekly document review calls-*** to discuss the status of various review projects
- ***Weekly technology calls-*** to discuss status and integration of technology implementation efforts
- ***Periodic written status reports-*** to provide the client with project specific metrics information, including information on pages or documents reviewed, overall progress of review, status of any redaction and privilege review efforts, etc.
- ***Quarterly budget forecasting-*** to discuss data volumes, custodians, strategic efforts and forecast review budgets

Dedicated Team

Review projects are staffed with dedicated teams that include:

- ***Attorney Project Manager-*** to manage the workflow and to help provide quality control
- ***Technology Specialist-*** to interface with the review platform technology vendor and to address all technology aspects of the review
- ***Dedicated Review Team-*** trained to understand the matter and the technology and focused on conducting the review efficiently and effectively; having a dedicated review team helps reviewers understand the client's data and helps promote consistency, efficiency and repeatability; Encompass has strategic relationships with staffing agencies to facilitate

scaling review projects using contract review lawyers; reviews are performed in dedicated Encompass review facilities in Columbia, SC and Nashville, TN

- **Partner-level Discovery Counsel-** to advise the client on discovery-related issues, to provide strategic direction and oversight on review and production strategy, and to advocate on behalf of the client before courts, magistrates, special masters, and with opposing counsel to help focus and right-size review efforts

USING TECHNOLOGY TO RIGHT-SIZE THE REVIEW SET

An important part of the overall review process involves using technology to right-size the review set. Technology considerations include:

- **Collections & culling-** whether clients take the lead and handle in-house or work with the Encompass team to implement strategies to handle as much as possible in-house and then send data to a selected technology platform provider, Encompass partners with clients and technology providers to tailor the efforts to meet the needs of the case
- **Technology vendor selection-** for clients wishing to select an external technology vendor to host data for review, Encompass provides checklists and issues to consider in connection with vendor selection and staffs every review matter with a technology specialist familiar with the vendor's technology
- **Advanced analytics and Technology Assisted Review (TAR)-** Encompass works with clients to assess whether advanced analytics and TAR are appropriate to help right-size the review set and achieve cost efficiencies, with options ranging from concept clustering and searching for review prioritization to the use of predictive or suggestive coding.

PROJECT MANAGEMENT PRACTICES

Organization and thorough documentation are keys to legal defensibility. Project management practices through staffing and workflow are important elements of implementing a value-based approach.

As noted above, each review project is assigned an attorney project manager. Key roles of the attorney project manager include:

- Collaborate and communicate with case counsel liaison
- Develop and update as necessary review guidelines in collaboration with in-house clients and case counsel
- Prepare and provide to the technology vendor search queries and coding templates
- Communicate review priorities for batching
- Conduct, in collaboration with case counsel, training of review teams
- Manage review team efforts, including quality control
- Monitor progress and manage project timeline
- Conduct weekly status calls

VALUE-BASED FEE STRUCTURES

While approaches can vary based on client interests and needs, Encompass' preferred approach to providing review counsel services is to conduct reviews using a fixed, per document or per page fee structure. Using a fixed, per unit approach can help with budget forecasting and predictability.

VALUE-ADD FROM CONSOLIDATING DISCOVERY COUNSEL ACTIVITY

Advantages of consolidating discovery counsel activity include:

- Single source for discovery with repeatable processes
- Less ramp-up time on new matters/increased efficiency
- Institutional familiarity- understanding the client's business, technology and organizational structure
- Free up in-house clients to focus on high impact data management issues
- Focus case counsel on handling the case
- Consistency across matters; standard forms and processes

CONTACT INFORMATION

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