

# *The Benefits of Collaboration in Lawsuits and Transactions*

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Although the day-to-day practice of many lawyers tends to focus on working with documents of one form or another, most documents are part of a larger project. Legal matters commonly fall into broad categories of lawsuits (dispute resolution) or transactions (deals, contracts, planning). Lawyers in large firms typically work in teams on litigation and transactional matters, with partners, associates, paralegals, assistants, and other staff making up the team. Even in the smallest firm, legal matters typically involve some kind of team, even if only a lawyer and paralegal. However, as we have noted, if you focus only on the internal team, or who is on “your side,” you will miss the number and variety of people collaborating on a matter.

In a lawsuit, you may find yourself working with clients, witnesses, experts, opposing counsel, vendors, service providers, judges, court personnel, and others. Take a few moments and make a list of all the people you worked with in your last lawsuit; you’ll likely be surprised at its length. For litigation that involves electronic discovery, that list no doubt grows, as vendors, experts, consultants, IT staff, and records managers become more involved in litigation. Litigation departments are increasingly hiring dedicated project managers, and most electronic discovery vendors offer project management services to deal with collaboration and communication issues. The growth of the legal project management function has been a major trend in larger firms over the last few years; see more about this in Chapter 14.

In transactional matters, the teams usually are smaller, but large transactions and mergers might require a small army. A transactional lawyer putting together a deal will work with various individuals on both sides of the transaction, including professional services providers, subject matter experts, consultants, and others. If the deals have a national or international dimension, the number of people involved is bound to expand. If you are a transactional lawyer, try the same exercise and make a list of all the people you worked with on your last transaction.

Collaboration in the legal world occurs not only in the realm of large deals and lawsuits. Estate planners often deal with accountants, financial planners, life insurance agents, appraisers, and trust officers while putting together an estate plan. Divorce and family law matters can also involve a large cast of characters. Lawyers of every stripe must collaborate with others in virtually any matter they undertake.

There are many benefits to using collaboration tools in litigation and transactional matters. You will want to look first to ways electronic tools can build on and improve existing nonelectronic processes. In other words, look for places that collaboration tools are evolutionary rather than revolutionary. The collaboration revolution in your practice will likely come as a series of small steps.

## Break Down the Barriers of Time and Space

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Lawyers now work with people locally, nationally, and globally. Meetings and conference calls in the United States may involve coordination with attendees in multiple time zones, often hours apart. In transactional matters, one or more participants in the negotiation might be from another part of the world. Coordinating business activities that are taking place literally around the world can be a daunting task. One reason email is so popular and widely used is its asynchronous mode of communication. An email sent late in a New York morning can be available first thing in the morning to a recipient in California. Indeed, it's difficult to imagine how global negotiations succeed without email. Collaboration technologies like email, **Microsoft Teams**, and other tools that facilitate asynchronous communication can make the differences in geography and time zones less burdensome and more manageable. Real-time tools like **Zoom** and instant messaging make it possible to easily have global synchronous communications. Some lawyers complain

about the extra burden instantaneous communication places on them—the evolution of mail to fax to email to instant message certainly requires lawyers to be more diligent in responding to clients and others and set appropriate boundaries. When time is of the essence or a deadline is close at hand, however, instant communication and the delivery of documents in electronic format can make all the difference in the world, no matter where in the world you happen to be.

## Improve Client Service and Access

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A frequent complaint of clients is getting billed for “teleconference with client re: pleadings in Smith case,” when all they wanted was to look at a copy of one of the documents filed in the matter. Worse yet, they might have to play telephone tag with the lawyer just to get a copy of the document. Client portals and other types of extranets enable clients to access their documents and other data at any time. When you make this material available on a secure website, clients can handle simple requests, like getting a copy of a filing or contract, on their own. The client will realize they need to call you *only* about the billable stuff—real legal questions and problems. Improving a client’s ability to access documents, manage contracts, track pleadings, review the status of a case or negotiation, or even facilitate an electronic signature process will benefit lawyers and clients alike, and it will help enhance a law firm’s value to its clients. Collaboration tools offer an attractive and often easily implemented benefit lawyers can provide to their clients.

## Get More Eyes and Heads into the Process

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When it’s easy to collaborate, it’s easier to increase participation from the people who should be involved in the process. With more people involved, you get different perspectives, more informed judgments, and better decisions. A simple conference call can bring in important business decision makers who would never have participated had the meeting been in person. Online document repositories allow experts to review relevant discovery material without shipping boxes of paper around the world. These tools also allow you to bring people into the process at the appropriate points and be more efficient in your review process, avoiding duplication and wasted effort.

## **Make Electronic Discovery a Team Effort**

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Electronic discovery in complex litigation matters can easily involve millions of documents, emails, and other files. You don't have to be a math major to realize that one person cannot review that amount of material, at least not in one lifetime of billable hours. Collaborative review tools, document repositories, workflow management programs, and newer artificial intelligence tools make electronic discovery feasible and realistic, especially as the "team" grows larger and spreads to many geographic locations.

## **Make Due Diligence a Team Effort**

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Electronic discovery gets all the press, but transactional lawyers tasked with performing due diligence increasingly are finding that they, too, are reviewing large numbers of electronic documents. They may also be advising clients about records management and other data issues. The need for collaboration tools like those used in electronic discovery definitely exists in this area as well.

## **Keep Everything Together**

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A deal negotiation may consist of an electronic flurry of document drafts, exhibits, schedules, emails, and even stored voicemails. We have moved well beyond the single manila file or Redweld containing everything related to a matter. Collaboration tools can help assemble and make accessible in one place all the materials relevant to a deal or lawsuit.

## **Stop Reinventing the Wheel**

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As all the team members move into working on a matter, it always takes time for them (especially if they are lawyers) to get up to speed. Many firms give young associates the "file" and instruct them to "familiarize themselves with the case." As lawyers rotate on or off a case or deal, clients subsequently see bills with many lawyers spending many hours catching up on the case, often by spending days reading through boxes of documents. Collaboration tools that focus on workflow, show what has already been accomplished, and clearly identify key documents can drastically reduce the time spent in review, and they produce better results.

## Improve Training

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Collaboration tools can keep histories, record notes and comments, and even extract lessons learned from earlier matters. They can also help you define and implement processes, spell out necessary steps, and improve quality control. As a result, these tools often have the side benefit of improving training of young lawyers, lateral attorneys, and others who are added to the team after the matter commences. Watch for the impact that audio, video, gamification, social media, knowledge management, and other online education tools will have in training firm or company employees.

## Improve Accountability

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Collaboration tools can help you track where changes were made on a matter or project. You can discover who worked on a specific task, how well they did, and how efficient they were in completing the task. With this knowledge, you can then provide training where needed, or assign the right people to the right tasks. Workflow tools are good at revealing logjams and choke points. The better you can track the work of the team and see its members' progress, the better you can manage the project. You'll also reduce the number of surprises. Clients are pushing lawyers to lower bills and improve efficiencies, but value billing is possible only when you understand the processes and work involved. We believe the continued emphasis on improving legal work processes will drive the implementation of collaboration tools in the practice of law.

## Close Projects Efficiently

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When lawyers complete a project, they tend to drop everything and walk away, moving on to the next matter. We have heard many lawyers over the years say how they wish they could put together a nice portfolio with a summary of the matter and its results, along with the relevant documents, to give to their clients at the conclusion of a matter. At the same time, we have heard many clients say they wish their lawyers would do the exact same thing for them when they close a case. Collaboration tools make it easier to close out a project and allow lawyers, clients, and others to follow the trail of the matter, easily access relevant documents, and generally provide a sense of closure that an itemized bill does not.

Collaboration tools would not be interesting to us if they did not produce better results than we currently experience in lawsuits or transactions. Consider the impact of the benefits of collaboration tools set out in this chapter. The combination of these benefits leads to an improved chance of winning the case, negotiating a better deal, and creating happier clients. Who can argue with results like these? It is the increased chances of these results that puts collaboration tools on the radars of litigators, transactional lawyers, and other legal professionals.