

January 10, 2014

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United State Senate
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire I previously filed in connection with my nomination on February 16, 2012, to be United States Circuit Judge for the Eleventh Circuit Court of Appeals, as well as my January 3, 2013, letter updating the Questionnaire, which is incorporated here by reference. Incorporating the additional information below, I certify that the information contained in those documents is, to the best of my knowledge, true and accurate.

Q. 8. Honors and Awards

I was recognized in the following publications: Super Lawyers 2013 (Top 100 Lawyers and Top 50 Women Lawyers), Chambers USA 2013 (Litigation: General Commercial), Benchmark Plaintiff 2013 (Georgia Local Litigation Star), and Best Lawyers 2014 (Commercial Litigation, Litigation – Intellectual Property).

Q. 12.d. Published Writings and Public Statements

February 17, 2013: Panel Discussion on “E-Discovery And The Use of Technology in Litigation” for the Atlanta Bar Association’s annual Caribbean Continuing Education Seminar, Marriott Resort, Palm Beach, Aruba. Notes supplied.

Q. 17. Litigation

(10) *Hospital Authority of Rockdale County v. GS Capital Partners V Fund, L.P.*, Civil Action No. 09-CIV-8716 (PAC) (S.D.N.Y.): The district court denied the defendants’ motion for summary judgment and granted the plaintiff’s motion for summary judgment on the counterclaims. The case was settled before trial.

I am also forwarding an updated Net Worth Statement and Financial Disclosure Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Very truly yours,



Jill A. Pryor

cc:

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United State Senate
Washington, DC 20510

BONDURANT MIXSON & ELMORE ^{LLP}

January 3, 2013

JILL A. PRYOR



The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire I previously filed in connection with my nomination on February 16, 2012 to be United States Circuit Judge for the Eleventh Circuit Court of Appeals. Incorporating the additional information below, I certify that the information contained in that document is, to the best of my knowledge, true and accurate.

Q. 6. Employment

Other Affiliations (Uncompensated)

November 2012 – present
American Institute of Appellate Practice
c/o Litigation Counsel of America
641 Lexington Avenue, 15th Floor
New York, New York 10022
Chair Elect

If confirmed, I will resign my position with the American Institute of Appellate Practice.

August 2012 – present
Attorney at Law Magazine
4647 North 32nd Street
Suite B 280
Phoenix, Arizona 85018
Atlanta Edition Advisory Board

Q. 8. Honors and Awards

I was included in The Best Lawyers in America for 2012 and 2013.

I was recognized by Chambers USA again in 2012.

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Q. 9. Bar Associations

I became the Chair Elect of the Litigation Counsel of America's American Institute of Appellate Practice in November of 2012.

Q. 12.d. Published Writings and Public Statements

March 29, 2012 – Panel Discussion (moderator) on “Advanced Technologies That Will Change the Practice of Law Forever” for the Association of Corporate Counsel, Georgia Chapter's Value Challenge Event, Atlanta, Georgia. Outline supplied.

Q. 17. Litigation

(10) Summary judgment motions are currently pending in this case.

I am also forwarding an updated Net Worth Statement and Financial Disclosure Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Very truly yours,



Jill A. Pryor

Enclosures

cc: The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Advanced Technologies That Will Change the Practice of Law Forever

Intro

Last year at this event I moderated a breakout session on what drives the high costs of litigation. When I asked for the audience's thoughts on what the biggest cost-drivers are, almost in unison all of the corporate counsel answered, "Discovery." The amount of electronic information will only continue to increase, and without changes in the way cases are managed, the costs will continue to increase as well.

So what can be done about this?

While technology may have created this problem, it may also be able to help solve the problem.

There are new types of software being developed and used to not only reduce the amount of time discovery takes and the cost of it, but also improve the overall *quality* of discovery –meaning that it improves the chances of capturing all of the relevant, responsive documents with the smallest number of non-responsive ones.

As with any revolutionary technology, it requires that we re-think the way we've always done things. It inspires fear and skepticism. We think to ourselves, I don't understand how this works. Is it really better or even as good as the way we've always done document review & production? Will I get into trouble with the judge or opposing counsel for using it? Will my team be able to use it? How much does it cost, and will it really save me enough money to make the investment worthwhile?

Our goal today is to help you begin to answer some of these questions with the hope that you can then begin a dialogue, within your companies and with your outside counsel, about how this advanced technology could help you.

Introduction of panel

Our panelists today represent three key players in the e-discovery arena: the expert consultant, the in-house lawyer/client and the outside counsel.

Our expert e-discovery consultant is Howard Sklar.

Howard Sklar, Recommind, Inc.

Howard Sklar is Senior Corporate Counsel at Recommind, Inc. Howard represents Recommind to corporations and law firms. Prior to joining Recommind, Howard was Global Trade and Anti-Corruption Strategist at Hewlett-Packard Co., running HP's global anti-corruption compliance program and providing counsel on compliance with US sanctions laws. Before HP, Howard was Vice President, Compliance and Global Anti-Corruption Leader at American Express Co. Howard was the chief of compliance for three operating divisions at American Express comprising 22,000 employees in 40 countries. Howard is a member of the US Court of Appeals 7th Circuit eDiscovery Committee and is a participant in the Early Case Assessment and Education subcommittees. [Howard holds a Juris Doctor, *cum laude*, from the Washington College of Law at The American University and a BA in History from Tufts University.]

Representing the client's point of view is Skip Lockard.

Orlyn "Skip" Lockard, Siemens

Skip Lockard is a Senior Counsel with Siemens Corporation based in Alpharetta, Georgia, and manages U.S. litigation for all divisions in the Siemens Industry Sector. His portfolio includes matters ranging from construction to product liability and complex commercial disputes. Prior to joining Siemens, Skip was a partner with Alston & Bird LLP in Atlanta, where he counseled Fortune 500 and other companies in the chemical, energy, mining, building product, and consumer product industries in complex litigation matters, including product liability, environmental, mass tort, and class action cases nationwide.

Our outside counsel representative is my partner Steven Rosenwasser.

Steven Rosenwasser represents both plaintiffs and defendants in business tort (breach of contract/fiduciary duty/partnership), fraud and antitrust matters. He is frequently called upon to represent individuals and classes in complex disputes at the trial court and appellate levels. His cases often involve vast amounts of electronic document discovery.

Steven has built a successful track record in the court room and as a negotiator. In 2008, along with colleagues from the firm, he obtained a \$281 million jury verdict against Turner Broadcasting System that was rated the No. 2 verdict in the United States by *LawyersUSA*. He has also successfully defended companies against multi-million dollar claims. Steven has been recognized as being “On The Rise” by the *Fulton County Daily Report*, a recognition given to only 12 attorneys in Georgia under the age of 40.

Steven is a frequent lecturer and author on business litigation topics including electronic discovery, effective trial techniques, and class actions.

Questions

1. First we'll need to explain the technology we'll be talking about. Howard, what is it and how does it work? When is it used?
2. Skip, your company recently entered into a partnership with Howard's company, Recommind. Would you explain how the partnership works and the potential benefits of it for you as corporate counsel?
3. Steve, from the perspective of outside counsel, what do you see as some of the benefits this technology might possibly offer you or your firm? [Steve briefly discusses his background with handling large discovery cases, brief history of firm's investigation into PC, and potential benefits it offers litigators and law firms.]

Howard, do you have anything to add to what Skip and Steve said as far as the efficiencies this technology brings?

4. We will get to discovery, but one of the things I find intriguing about these products is their potential for use in early case assessment (ECA), before discovery even begins or pre-suit, for that matter. Let's say Skip's company is sued in a potentially large and complex antitrust case. He consults Howard on using the technology to evaluate the claims. Howard, what would you discuss with Skip?

Skip, what would you be concerned about at this point? [What is your assessment of the investment/return?]

[If not covered earlier: How did your company make the decision to partner with Recommind (cost vs. benefit)]?

5. Suppose Skip feels the claims are valid enough to retain outside counsel and retains Steve. The case proceeds and now we are preparing for discovery. Howard, would you explain how we move into the discovery process?

What are some ways that we can proactively seek to control or manage discovery by taking advantage of this technology? (Howard, Skip)

[If not covered --Who should do the first pass and how?]

6. Steve, what are some of your concerns about the use of this technology? Skip, do you have any concerns from your perspective?

Howard – response?

7. Do you need to get your opposing counsel's agreement to use PC to select your documents for production? What are your best arguments for getting opposing counsel to agree? (All)

If opposing counsel consents, do you also need the judge's approval?

What if opposing counsel does not consent? Do you go to the judge anyway?

How do you explain PC to a technology-challenged judge?

As you know, there has only been one court decision on the use of PC in discovery, and that is Magistrate Judge Peck's ruling in the *DaSilva* case. Howard, would you briefly explain what Judge Peck ruled?

Skip and Steve, what do you think other courts will do? What needs to happen to achieve wide spread approval for using PC?

What happens if the other side/judge doesn't consent in a given case? In our imaginary case, can Steve still use PC in any way on Skip's documents?

--Can use PC to suggest keywords to propose to other side/court.

[Going back to opposing counsel, what if opposing counsel wants to use its own PC software on Skip's original universe of documents? Howard, have you ever seen that happen?]

8. Let's assume the judge approves, opposing counsel is on board and PC is used correctly, is there still a need to lay eyes on every document? Steve? [If so, what are you worried about missing?]

9. If PC does what it is supposed to do, how much money can it potentially save? Does it eliminate the need for outsourcing/contract reviewers? (All)

10. Who should foot the bill for PC in a standard hourly fee arrangement between the client and outside counsel? (All)

11. Will Skip force outside firms to use PC technology? Will he switch firms if they won't? (Skip)

12. Are there litigation situations where PC won't work or is impractical? Can a case be too small? (Howard, then others)
13. Howard, how do you answer potential client or firms who don't want to be the first to use this? I assume most clients will not want to be the test case. How do you achieve a proof of concept?
14. Howard, what are some of the more unusual uses of the technology that you have seen?
15. Would you want to face an opponent who is using PC when you are not?

Audience questions/comments