



# Technology Drives Innovation in Legal Services

**Robin Shepherd | February 2015**



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## Introduction

The practice of law is in the midst of a sea change, with a new set of operational challenges and performance metrics that define success.

Inhouse counsel are managing a heavier load of legal actions, regulatory filings and reporting requirements, while higher litigation and settlement costs bring more risk. Tighter budget and staff resources add to the challenge, creating backlogs and exposing workflow inefficiencies.

These pressures also affect inhouse relationships with outside counsel, translating into higher expectations for efficiency, transparency, cost control and technology competence.

This is particularly evident in litigation, where the potential for negative impacts to the corporate brand and bottom line are greatest.

There's a growing recognition of the need to modernize processes and workflow – from inhouse legal departments, to law firms, to the courts. Emerging to meet this need are more efficient methods, such as e-discovery, and more effective technology for collaboration, powered by video.

This white paper looks at the current U.S. litigation environment from the standpoint of forces driving adoption of video-powered technology solutions for e-discovery and other areas of legal practice. Guidelines are provided to assist you in researching and evaluating solutions to meet your organization's needs. Use cases illustrate benefits realized by legal and insurance professionals who have chosen technology provided by Vidyo and NextGen Reporting to meet their needs.

*“E-discovery is pervasive . . . you're no longer going to be able to conduct litigation of any complexity without understanding e-discovery.”<sup>1</sup>*

*Hon. James C. Francis  
U.S. Magistrate Judge  
New York*

# Industry Outlook

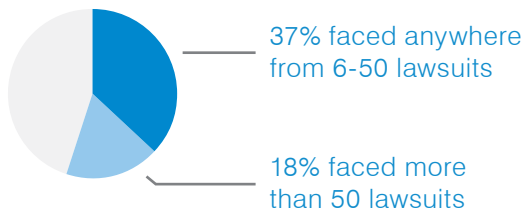
## Inhouse Counsel faces litigation, compliance and cost issues

In 2013, Norton Rose Fulbright surveyed more than 400 senior corporate counsel executives to uncover trends impacting litigation in the U.S.<sup>4</sup>, with telling results.

### Key Findings

#### Litigation Burden

Respondents struggled to manage a heavy volume of litigation in 2013



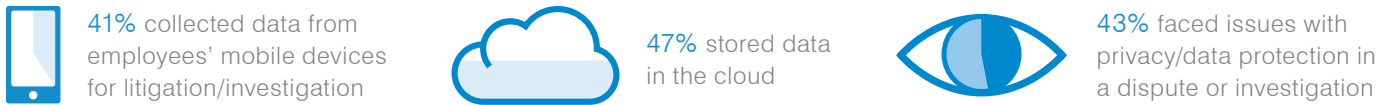
#### Tougher Regulatory Environment

The number of companies facing regulatory proceedings was up for the 3rd year in a row



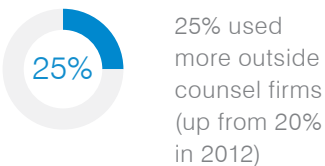
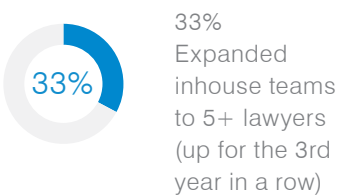
#### Data Ubiquity

Respondents had access and manage more data on the web and in the cloud



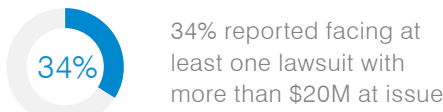
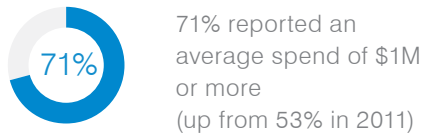
#### Bigger Teams Needed

Corporations hire more inhouse and outside help.



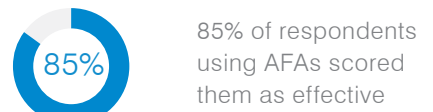
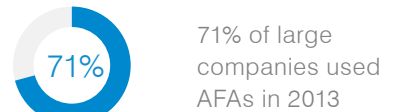
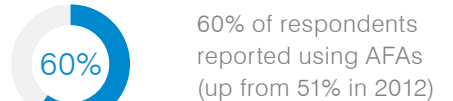
#### Escalating Costs

Litigation costs (excluding settlement and judgment spending) have more than doubled.



#### Alternative Fee Agreements (AFAs)

AFAs have gained favor and their use is expected to continue to rise.



Corporate legal departments aim to overcome these challenges by building more predictability and control into litigation efforts, thereby reducing risk and costs. Legal departments are also leveraging IT advances in other parts of the organization, for instance moving workloads to the web and to the cloud. These changes in process and workflow will help ensure better access to data and the ability to tap into workflow efficiencies and real-time collaboration enjoyed by other departments.

Across the country, inhouse counsels are enrolling in new professional development programs to uplevel their skills in areas including litigation communication, and video conferencing plays a key role here. For example, the University of Colorado Law School will kick off just such a new program, with classes led by general counsel from Fortune 500 companies, in 2015.

<http://bit.ly/1wGd1O8>

## At law firms, tech investment is up

In 2014, the International Legal Technology Association (ILTA) and InsideLegal published the results of a Technology Purchasing Survey of ILTA-member firms. The survey gathered responses primarily from C-level or director-level executives of 281 firms including roughly 60% with more than 50 attorneys; and 40% with more than 100 attorneys.<sup>5</sup>

### Key Findings

- 54% percent of respondents invested as much as 4% of their total revenue on technology, up from 48% in 2013.
- Aside from IT, an average of 31% of tech purchase requests came from Practice/Litigation Support.
- Software rose as a percentage of total technology purchases, and litigation support software was among the top 3 planned software purchases.
- Mobility, cloud services and virtualization were named among the most exciting technologies or trends seen recently by respondents.

### New Priorities

Law firms are investing in technologies that give them more flexibility and control over day-to-day communications supporting litigation. Their priorities include:

- the ability to connect remotely with partners, clients, deponents and others using everyday mobile or desktop devices and a simple internet connection
- the productivity of “face-to-face” meetings that include active document sharing
- a reliable way to gather, store and transmit compelling evidence and testimony
- an easy, agile way to schedule remote depositions and hold ad hoc meetings to suit the litigation strategy and client needs

Growing use of video extends beyond law firms to their interactions with law enforcement and the courts.

Police officers and investigators are incorporating video technology into field operations. At the same time, the judicial system is increasingly allowing video-enabled presentation of evidence and testimony in courtroom proceedings, with local and state court systems catching up to U.S. federal courts in this regard.

In FY 2014, the Michigan Department of Corrections (MDOC) saved over \$2.6M after more than 4,000 “video transports” eliminated the need for physical transport of mental health patients and prisoners to courtrooms for hearings. Local jurisdictions also realized savings and benefits by freeing up law enforcement staff to handle other public safety functions.<sup>6</sup>

For MDOC, the savings in the last year alone have exceeded the video system budget, and savings to local units are estimated to far exceed savings to the state. Police technicians also use videoconferencing to participate in arraignments, pre-trial conferences, and other court hearings – all without the time and expense of travel.



## The task of evaluating technology

Ideally, legal professionals work closely with IT staff, technology consultants, vendors or service providers to define goals and technical requirements for e-discovery and video conferencing as a secure and efficient part of their everyday workflow. This would include depositions, mediations and arbitrations as well as internal and client communications.

### What Legal and Insurance Professionals Should Ask Video Tech Vendors

- Is the audio, visual and video of sufficient quality?
- Is it easy to deploy in my organization’s IT environment?
- Is it easy to host meetings?
- Does it provide a reliable connection and experience?
- Is it easy to collaborate with small or large teams, with 3rd parties?
- Is it easy to display, share and manipulate a variety of content?
- Does it work on all desktop and mobile operating systems my organization uses?
- Is it easy to record/playback depositions and other legal events?
- Does it meet legal privacy and industry compliance requirements?
- Can I integrate it with my email, calendar and other apps I already have?
- Does it work in a hybrid on-premise and cloud environment?
- Is it easy to maintain?
- What is the cost? What are the licensing options?
- Does it have third party endorsement (analysts, customers)?
- Does the vendor provide a clear technology roadmap?

## Practice in the Cloud

In the field of law, migration to cloud services is gaining ground. The economics and convenience of the cloud create a viable alternative to legacy data center systems that require heavy IT support.

Key benefits expected from cloud services include:

- easy access from anywhere via a web browser (74%)
- 24x7 availability (63%)
- low cost of entry and predictable monthly expense (56%)
- quick to get up and running (44%)
- eliminate IT and software management requirements (41%)

Video conferencing technology must be aligned with the benefits expected from cloud services in order to gain acceptance for litigation support. That said, attorneys remain wary of free cloud-based alternatives such as Skype or Webex, which tend to provide limited convenience at the sacrifice of reliability and security (and this despite changing requirements regarding client confidentiality and regulatory compliance).

### **Mandate for cloud-based video technology platforms**

To support adoption of remote video depositions as a cloud-based service, the video technology platform must satisfy these key requirements:

- Consistent telepresence quality at scale
- Smooth integration with technology infrastructure already in place for applications such as email, client and case management, and litigation support (time-entry and document management, legal research tools, etc.)
- Video capabilities that extend to the full range of desktop and mobile devices using ordinary internet connections
- Self-service options that don't require help desk or IT support
- Support for hybrid public/private cloud environments
- Encryption of video recordings

<http://www.cloudcomputing-news.net/news/2014/jul/23/cloud-migration-best-practices-for-law-firms/>

## Enterprise-grade vs consumer-grade video

NextGen Reporting provides turnkey services for remote depositions, mediations and arbitrations to legal and insurance industry clients across the U.S. Video conferencing is an essential building block of the company's service offering. After evaluating a wide range of video conferencing solutions, NextGen concluded that "consumer-grade" options along the lines of Skype couldn't measure up to enterprise requirements. These consumer grade solutions lacked the right balance of performance, reliability, security and features.

### **8 Advantages of Enterprise-grade Technology:**

- Support for a wide variety of enterprise endpoints using IP or ISDN
- Ability to deliver telepresence-quality video over "lossy" internet connections
- Consistently clear audio with reliable echo cancellation
- Flexible screen-sharing options
- Ability to traverse firewalls and establish secure, reliable connections
- Support for strong encryption to meet industry standards for secure video transmission
- Ability to easily save video streams as industry-standard MPEG4 files
- Ability to share and record interactions with documents as part of a remote deposition

## A new model for remote depositions – NextGen and Vidyo

Attorneys need to be able to work while mobile. Today's remote deposition services provide inhouse counsel and their law firms a better platform to review and discuss cases as they progress from research to resolution. It's faster and easier to collaborate on strategy when everyone can access recorded depositions as well as arbitration and mediation sessions.

According to David Noteware, CEO of NextGen Reporting, his company built its services on Vidyo's software-based video conferencing platform because it performs without the need to set up expensive custom-built rooms or special-purpose equipment. Clients can use NextGen's service in their existing IT environments, which include on-premises, mobile and cloud apps, and Vidyo is the common denominator.

"Vidyo allows us to support busy lawyers who use multiple mobile and desktop devices and apps and have zero tolerance for anything but reliable, high quality communication and a reliable anytime, anywhere connection even with unpredictable bandwidth. And the technology has to work seamlessly in the background."

### **Better Decision Making**

"Using video as a recording medium for remote depositions, they have a better sense of a deponent and his or her testimony (e.g. tone of voice, facial expressions and body language), earlier in the process, to know how it's likely to play out in a trial, and ultimately to use it whether they decide to go to trial or pursue settlement negotiations."

### **More Agility and Control**

With ready access to recorded depositions, law firms can eliminate traditional burdens of express courier services, expensive hardware and network infrastructure, and hours of searching archives to find recorded testimony.

NextGen also maintains compliance with changing local, state and federal rules regarding remote depositions, which the company says something traditional court reporting firms don't handle.

With AFAs becoming more popular, law firms need to be agile. Streamlining the deposition process helps law firms maintain a better balance of work load and personnel, with less dependency on travel and the unpredictable availability of stakeholders, not to mention less delays. NextGen says its large insurance industry clients may conduct as many as 1,000 depositions a month, making increased efficiency and reduced deposition costs a top priority.



## Use Cases for Video-based Remote Depositions – Insurance

### DEKRA

Dekra, an insurance claims processing firm based in the Netherlands, turned to video communication to gain a competitive business advantage. In a country with massive traffic congestion, it was not unusual for adjusters to be on the road for hours to meet with a claimant. This created a significant backlog of customers having to wait days or weeks before being visited by an adjuster so their claims could be processed.

By adopting video conferencing technology, Dekra modernized its service delivery model. Using Vidyo, claims teams can connect with customers in minutes, remotely conduct damage assessments, and share claims documents – all without the time and expense of travel. Customers have ready access to claims representatives using any internet-connected smartphone, tablet or desktop device, and any network.

Along with improved profitability of its claims processing operations, Dekra is also achieving a higher rate of customer satisfaction because claims are initiated and processed more efficiently than before.



*The shift to video-based claims services helped Dekra's claims teams increase productivity by 50-100% while serving more customers over a larger geographic area.*

### NextGen Reporting enables nationwide insurer to reduce costs, support better decisions

A national insurance company was managing a property liability matter in which the key witness was in Florida and would not travel to Pennsylvania to be deposed. Rather than send attorneys on the sixteen-hour round trip, the insurer opted to use a remote deposition service. NextGen Reporting connected the deponent from a local hotel conference room to the attorneys in their home office using its secure Internet video service, powered by the VidyoWorks platform. The attorneys conducted the deposition. NextGen recorded the video stream, providing it to the insurance company's counsel and claims adjuster to help them evaluate the credibility of the witness and establish an appropriate settlement position.

### NextGen vs. Traditional Court Reporting

**47%** Savings in Transcript and Video Costs

**75%** Savings in Attorney-Related Costs

**67%** Overall Savings on Cost on Depositions

Using NextGen's services on the VidyoWorks platform, attorneys were able to conduct a remote video deposition over a simple internet connection using their desktop PCs at the office. No special equipment or set up was needed for the attorneys or the deponent. As a result, the attorneys were able to devote their time to high-value services prepping for and conducting the deposition rather than traveling. The insurer's claims professionals were able to observe the deponent "face to face" in a recorded video and make a well-informed settlement authorization. At the same time, the insurer reduced videography and transcription costs associated with traditional court reporting.

## **A leading auto insurance provider reduced case resolution time by 10 months**

An attorney litigating an automobile accident in an insurance matter needed the plaintiff, defendant and opposing counsel to meet for a few hours of depositions. However, the parties were located thousands of miles from one another along the Eastern seaboard and it appeared they would not be able to meet for almost a year. The attorney opted to use a remote deposition service to avoid delay and reduce friction in the litigation process.

NextGen Reporting provided the remote deposition service, powered by the VidyWorks™ platform for video communication and collaboration. The parties were connected through streaming video, with the deponents participating from their homes while the attorney and his opposing counsel examined the witnesses from his office in Philadelphia.

NextGen provided a court reporter local to the attorney's office, made sure all parties were connected to the deposition, and recorded the video streams, storing the video, transcripts and exhibits in a secure repository for the attorney and insurance claims team to reference following the depositions.

### **A Win-Win for Auto Insurers and their Customers**

- Reduced time to resolution by 10 months
- Saved plaintiff and defendant over \$1200 in travel expenses
- Eliminated the effort and expense of a videographer, special equipment and technical support

## Use Cases for Video-based Remote Depositions - Legal

### Expert Medical Testimony via Live Video Feed

In November 2013, Assistant DA Kathryn Powers thought she had prepared an airtight prosecution against the defendant in a rape case. She had solid evidence, the victim had identified the defendant as her attacker, and the defendant had a long criminal record. The presiding judge directed the assistant DA to prove a lack of consent on behalf of her client, and gave her 48 hours to prepare.

The assistant DA would have to bring an expert medical witness to the stand to testify about his analysis of the x-rays showing the victim's broken wrist. The trial was in Georgia and the doctor was in Pennsylvania. An investigator working for the DA's office contacted NextGen Reporting. Early the next morning, NextGen had set up a live video feed from the firewall-protected hospital direct to the courtroom. According to the investigator, "This was the first time we'd ever tried a live feed into a courtroom, and there was so little time to prepare."

NextGen created a secure video link and HIPPA-compliant video feed over the Internet powered by the VidyoWorks™ platform. Later that day, the assistant DA would write: "the testimony is the only evidence of force for the rape that we have." It was evidence that proved instrumental to the assistant DA in winning her case.



Telepresence-quality video and audio enabled the judge, defense counsel and jury to experience the doctor's testimony, including his analysis of X-rays, as if he was present in the courtroom, not hundreds of miles away.

### Attorneys use remote deposition services in their role as national coordinating counsel

The Texas-based law firm of Allan, Nava and Glander serves AT&T and other well-known corporations by handling and coordinating their cases, which may involve a large number of jurisdictions across the country. They handle a range of needs from simple personal injury cases to complex commercial litigation with millions of dollars in dispute.

Partner Troy Glander represents his clients without unnecessary travel time and expense by engaging the services of NextGen Reporting for remote video depositions. These services are powered by the VidyoWorks™ platform. Vidyo enables HD multi-point video communication using any device at any location with a simple internet connection, providing the law firm with powerful options for screen sharing, content sharing, panning and zooming during remote depositions. These sessions may involve lawyers, witnesses and court reporters participating from a variety of locations using a variety of internet-connected devices.



*"I used to waste so much time in airports and driving. Now I use that time helping my clients in more tangible ways. Few other law firms give clients the ability to watch depositions in real time. I'm growing my practice by offering this as a unique differentiator."*

*Troy Glander, Partner*

Rather than wasting time in traffic or at airports, Glander can choose which depositions he'll attend in person and which ones he'll conduct remotely. He can invite his clients to watch remote depositions as live video streams, or view recorded depositions at a time that fits their schedules.

The law firm uses these recorded video depositions in settlement presentations and at trials. NextGen stores the videos in a secure repository for easy playback, downloading or synching by the partners at any time. Glander uses remote video streams to assess the effectiveness of local counsel, strategize with co-counsel, and prepare witnesses for deposition – all without leaving his office.

### **Law Firm Improves Access to Expert Testimony**

Becker Meisel serves the New York, New Jersey and Philadelphia corridor; providing legal counsel, litigation and business services. The firm is included in the U.S. News annual Best Law Firms in America for 2014.

According to partner Michael Holzapfel, his and the firm's first use of remote video deposition services, provided by NextGen and Vidyo, was successful. The firm was representing a tool manufacturer in a personal injury lawsuit. They needed to depose an expert witness, an elderly scientist living in Minnesota who was hard of hearing. NextGen provided a turnkey remote service powered by VidyoWorks. This eliminated the need to express-mail exhibits, wait while the expert sifted through all the documents, and struggle through a telephone testimony.

"I was able to interact face-to-face with the expert via video without having to leave my office. I shared my desktop screen with him and showed him precisely what he needed to review in the exhibits and he was able to respond in real-time. NextGen recorded and stored the video deposition for us. The service easily saved two hours in this step alone, and it was both cost-effective and painless to use."

### **BECKER MEISEL ATTORNEYS AT LAW**

*"The investment in technology that allows for a seamless partnership with our clients is one of the firm's defining qualities that have garnered the respect of the bench and bar, adversaries and co-counsel."*

*Martin Borosko  
Managing Partner*

## Video-based services aid information governance

eDiscovery is critical to proper information governance and risk management. Client information often enters a law firm through the litigation support process. Increasingly, this information is captured in video recordings. In the court's view, it is the responsibility of the law firm to engage the right people, processes and technology to ensure proper governance of client information.

“Law firms may manage vast amounts of clients' electronically stored information (ESI) collected in response to requests for production. Having a system in place to systematically track, retain and, at the end of the matter, dispose this information is a vital component of a well-executed litigation plan,” said Brian Jenson, director, litigation and e-discovery services at Orrick, Herrington & Sutcliffe.<sup>8</sup>

NextGen Reporting and Vidyo provide a reliable platform and a repeatable process for remote video services that allow those who come in contact with ESI to do so in compliance with requirements for information governance.

## On the horizon - tech proficiency a mandate and metric for lawyers

In a post titled The Future of the Legal Industry<sup>9</sup>, the Virtual Intelligence blog sees the rise of “virtual law firms” in which the lawyer is considered an expert within a specific field of law and matters are handled efficiently by use of information technology.

LawBiz Management takes this a step farther; pointing out that the organized Bar has included technology proficiency as an element of the definition of competency to practice law. “Being more efficient and effective in using technology to perform legal services will, for the first time, enable and encourage lawyers to alter their billing modalities and move away from the billable hour should they choose to do so...This will be a game changer.”<sup>10</sup>

## Summary

The same forces that are driving change in the macroeconomy: moving applications and data to the cloud, an increased need for collaboration to make speedy and accurate decisions and the requirement for everything to be accessible to highly mobile users are having a game changing impact on how law firms and litigators conduct business. Innovators in law firms, insurance companies, the courts and justice system are leveraging these trends to reduce costs, increase the volume of cases resolved and improve results for clients. These innovative new approaches are augmenting and, over time will completely replace many existing processes within the practice of law.

## About Vidyo

Vidyo, Inc. delivers amazing visual communications and price performance in line with user expectations to power the “human interaction” in the growing market of the “Internet of Things.” The VidyoWorks™ platform and APIs leverage Scalable Video Coding (SVC) and Vidyo’s patented VidyoRouter™ to deliver scalable video conferencing, collaboration solutions and cloud-based services over public networks at a price comparable to audio conferencing. Vidyo pioneered personal telepresence and today is delivering integrated video applications anytime, anywhere over the broadest range of devices. Vidyo has more than 60 patents issued and patents pending in 65 patent families in various jurisdictions around the world.

## Vidyo Solutions for Professional Services

VidyoConferencing™ solutions help legal, insurance and financial services professionals deliver high-quality and personalized services more efficiently and securely while keeping costs down. Clients have the opportunity to engage the Vidyo professional services team, and in some cases Vidyo partners, to tailor solutions to their organizations’ unique objectives, infrastructure and business workflows.

## About NextGen Reporting

NextGen Reporting provides deposition services to 8 of top 10 U.S. insurance companies. In addition to depositions, NextGen connects attorneys and witnesses to trials, arbitrations and hearings through video streaming and videoconferencing. This reduces cost to transport expert witnesses, enables infirm witnesses to appear, and allows corporate clients to watch courtroom proceedings from their offices.

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