

# E-litigation "the way of the future"

**L**ARGE and unwieldy bundles of documents in courtrooms may soon be consigned to history as electronic litigation support systems replace paper documents with digitised information.

Crown Law conducted its first 'electronic' court case in July-August 2007 in a historical child abuse case. It began a second hearing using *e-litigation* in the Human Rights Tribunal on 3 June.

"This is the way of the future," says Crown Law's Litigation Services Manager, Daphne Rowland. "All courts will operate this way before long."

*E-litigation* systems allow very large numbers of documents to be stored and retrieved either within the court or remotely at the press of a key, and for documents to be quickly searched.

Court processes can be run more efficiently and cases completed more expeditiously, saving many days of valuable court time.

Crown Law used an off-the-shelf product called Signature Cannae developed by Australian company Systematics, because it was user-friendly, support was good and, unlike many products, it provided for all aspects of litigation.

The saving of court time saw last year's first *e-litigation* case completed in 32.5 days instead of the estimated 45. Counsel and Judge put this saving down to the use of System@Law, the presentation side of Signature Cannae, and to real-time transcription with the court reporter using a computer-assisted stenograph machine so the testimony of witnesses appeared on monitors within seconds.

Sally McKechnie, one of the Crown Law counsel in the historical child abuse case, says that by the end of the trial the system was comfortably used by all concerned.

"It was very good once everyone became used to it. Because it was the first case where we had used the system we had hard copies as well - 15 Eastlight folders per bundle - but the computer search is faster than manual, especially when the documents are not consecutive.

"We also had live transcription, hyperlinked to the document management system, which meant that at a later stage you could click on the reference in the transcript and it would take you directly to a particular document."

Sally McKechnie says electronic document display proved to be simple for witnesses. "Some were elderly and perhaps had little familiarity with computers but the material is displayed to them quite passively and they could readily read the material without having to do anything."

When used for discovery, the system can be configured to give access remotely to the documents for opposing counsel for a limited time, so that confidential information is withheld and documents cannot be changed.

The system ensures security through a combination of user login and pre-configured user groupings, allowing degrees of access in the court environment, such as sharing within one's team, with opposing counsel and with the court, without the witness seeing the documents being discussed.

While text cannot be highlighted, pages can be tagged, prioritised and comments recorded, Sally McKechnie says. "Someone else can come along later and see what you thought was important, at what stage you were at or, for instance, what was used in briefing a particular witness."



*This view may soon be typical of what will greet counsel entering courtrooms - the court as it was set up for a hearing earlier this month.*

The historical child abuse case rapidly expanded, and by the time the hearing took place 24,909 documents had been installed, a total of 42,785 pages.

Because it involved actions alleged to have taken place in institutions going back to the 1960s, tens of thousands of pages from the National Archives had to be scanned to build a database. Many of the originals were fragile hand-written notes. The computer environment allowed them to be viewed over and over again. Such was the volume of material, the software company had to build a new section to its software - called 'Common Evidence' - containing institution files.

There were some teething problems. The system requires a high-speed ADSL connection but initially the Ministry of Justice line provided was inadequate. Computer storage capacity was also too small to start with. All computers in the courtroom were networked by cable - the inadvertent kicking out of plugs was a hazard that will be eliminated in future by using a wireless network.

The only disadvantage Sally McKechnie could see was some people may have a perception problem. "Even though a document appears on the screen more quickly than if you were searching through a document bundle, it feels like it is taking a long time because we expect a very rapid response from computers and counsel are looking at the screen waiting for a document to arrive."

Daphne Rowland says that while electronic litigation support works particularly well with civil litigation, which Crown Law does a lot of, it might not be so useful in criminal trials "where there are objects that have to be viewed". **LT**

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