

Student Edition

Careers

Attorney Profile



Q&A with Information Lawyer James Sherer

Information Law is a relatively new and dynamic field that incorporates many diverse practice areas, including litigation, privacy, data security, technology, and communications. Bloomberg Law asked James Sherer, a partner at Redgrave LLP, about this ever-changing field, his own career path, and the opportunities both new and experienced lawyers may explore within the evolving field of Information Law.

Q. James, you started your career as a litigator, focusing on white collar crime, securities litigation, insurance coverage disputes, and products liability. How did your experiences lead you to a focus on information law and e-discovery?

A. The evolution of my practice was a combination of opportunity, luck, and open-mindedness. Law school had prepared me (by choice) to be a corporate attorney. However, when I started practicing, I immediately began working on very large product

liability matters, each of which involved quite a bit of electronic discovery. My current practice, focusing on Information Law, was a natural progression from working on very large civil—and later criminal—litigation matters that directly involved those issues. In those cases, and in the early 2000's (as attorneys became more comfortable with the idea of “computers” intersecting with discovery), parties were just beginning to imagine what information might be hidden deep within very large data sets, and seemed to ask for everything in an effort not to miss anything.

After practicing in New York, I took an in-house position as a litigator in the Midwest. One of my responsibilities was to further develop that organization's in-house document management and e-discovery practices, so I was able to learn from some of the best outside counsel while experiencing the realities of in-house practice. Concurrently, I had the opportunity to return to school and complete a MBA. After I finished my work in-house, I was offered my partnership opportunity with Redgrave LLP, certainly based on my experience and my credentials, but primarily because of relationships I had developed in this space.

Q. What about the field of Information Law excites and motivates you?

A. I consider myself an early technology adopter, so much so that there is a wife-approved, monthly line-item in our budget for my electronics purchases. I am just as excited by new technologies and how they change the practice of business—and, by extension, the practice of law. Once I started working on Information Law issues, I found that I was developing a lens through which I would examine new technologies: reviewing submissions on slashdot.org and hypothesizing how potential advances might be viewed by litigators, or how changes in Google or Facebook policies might change client business practices.

Because the practice covers both case-specific litigation efforts and overall strategy, Information lawyers have to think about how an organization's strategic call today will be viewed by the “court

Originally published by Bloomberg Finance L.P. in the Bloomberg Law Reports. Reprinted with permission. Bloomberg Law Reports® is a registered trademark and service mark of Bloomberg Finance L.P.

This document and any discussions set forth herein are for informational purposes only, and should not be construed as legal advice, which has to be addressed to particular facts and circumstances involved in any given situation. Review or use of the document and any discussions does not create an attorney-client relationship with the author or publisher. To the extent that this document may contain suggested provisions, they will require modification to suit a particular transaction, jurisdiction or situation. Please consult with an attorney with the appropriate level of experience if you have any questions. Any tax information contained in the document or discussions is not intended to be used, and cannot be used, for purposes of avoiding penalties imposed under the United States Internal Revenue Code. Any opinions expressed are those of the author. Bloomberg Finance L.P. and its affiliated entities do not take responsibility for the content in this document or discussions and do not make any representation or warranty as to their completeness or accuracy.

of tomorrow.” This incorporates a lot of hypotheticals, strategic thinking, brainstorming, and extrapolation from existing case law. Perhaps it is the former insurance policyholder litigator in me, but while the technology itself is exciting, most of my motivation comes from helping organizations and practitioners make correct, defensible decisions that will impact future issues.

Q. What might a “typical” week include for you? Who would you be meeting with, what activities would you be engaged in?

A. I split my time between strategy—offering advice and developing policy with clients—and practical efforts on existing litigation matters. We handle some casework directly, focusing on discovery and Information Law issues in cooperation with merits counsel. I have also had the opportunity to work as part of a special master team, where we addressed discovery disputes between parties. In our cases, and in the special master support role, I research and write on issues relating to discovery practice, and for clients, offer advice regarding best practices.

I also handle quite a few calls from existing clients on a daily basis, where those clients are making strategic decisions they want to discuss in pointed detail. Here, clients want their decisions to make logical sense, but also want to benchmark their ideas against the Firm’s experience with other similarly situated clients. These calls often operate in conjunction with longer-term project work, where our Firm offers advice and drafts supporting policies, procedures, and template documents for litigation and records management. These types of projects require a lot of Firm coordination, and further project calls and management. Finally, I usually travel once every two-to-three weeks to my clients’ offices, to meet with in-house attorneys, support personnel, and records and information professionals face-to-face, and to examine how the theory we discuss is put into practice.

Q. In addition to knowledge of the law, what fields of knowledge do you need to do what you do? What skills serve you in serving your clients?

A. Like many of the professionals that work at my firm, I have some experience working in-house with a large multinational corporation, spent a number of years at large firms, and received an additional graduate degree. These experiences all contribute to my practice, and I am certain they operate in concert in my daily practice. I find that the graduate degree helps the most with the project management inherent in much of the work that we do; my firm experience gives me insight into the challenges merits counsel face; and the knowledge developed through my in-house experience helps me identify the needs of our clients. Especially with Information Law, when I am working with in-house clients, I try to serve both the organization and the individual. Because the practice is relatively new, I often see junior or newly hired individuals assume the helm of responsibility in-house, and when

I offer advice, I can honestly say that “I was there” and have walked in those shoes; my advice comes from both my practice and my experience with similar situations.

Q. For law professionals who are interested in litigation practice but don’t necessarily want to do trial or appellate work, is a career focused on records management and e-discovery a good alternative? Can you describe that work and how lawyers can find satisfaction in these fields?

A. A career focused on these areas is certainly a viable one, and if a professional is passionate about the field, and willing to spend the time required to obtain the skills and knowledge necessary to provide appropriate client service, that professional will succeed. It is nearly a cliché at this point, but information is continuing to grow at a dramatic rate, and the ways in which people are sharing information continue to expand as well. Both of these points directly impact clients, and require a continual evaluation of that impact. Finally, lawyers in this field can find specific satisfaction knowing that they are entrusted with one of their clients’ most precious assets: the client’s corporate memory. And the project work side of Information Law can lead to the satisfaction of completing a project, and the reward of a closer relationship with (and more work from) a satisfied client.

Q. What do you think the greatest opportunities in Information law will be within the next five years?

A. We see a concurrent increase in the well-documented explosion of information, and the different methods by which individuals—and organizations—are willing to share it. It is control over this information and its dissemination, and proper analysis and review of existing information, in whichever form, that is particularly salient to our clients. Data privacy, especially with recent EU rules and increased cross-border data flows, presents a variety of novel issues and expanded opportunity for thought leadership. Finally, there are other challenges without as much direct press coverage: consistency within database exports; managing internal records and litigation processes; and properly training individuals tasked with the actual work of maintaining records and information, within the company and in response to litigation.

Q. Any other advice or comments for law students or practicing attorneys interested in specializing in this field?

A. Five simple words: get involved and be patient. Look for opportunities to read, research, and write; to attend conferences; to reach out to practitioners in the field. Woody Allen, as confirmed by William Safire, once said that playwrights who never write a play will not succeed—indeed, success can only happen if you “show up.” While this was later popularized as the aphoristic

“some percentage of success (or even life) is showing up,” interest alone is not enough. While pursuing those opportunities, do not neglect your practice. Instead, continue to develop a reputation for being good at what you do. The field of Information Law needs good practitioners, not just interested ones.

The specialization of the field has led to a core group of focused practitioners eager to share their knowledge and interest. Develop a relationship with one or several of these practitioners, and available opportunities within the profession will appear as a matter of course. In fact, one of the most interesting facets of Information Law is the appreciation that multiple approaches towards the topic each bring value. Even corporate practitioners with little litigation experience have their specific knowledge regarding corporate structure and information flows within an organization; these often translate well into specific Information Law needs. In sum, each skilled practitioner interested in this field is likely to have something unique or valuable to add; to add it, the interested practitioner just needs to get involved.

James Sherer is a partner with Redgrave LLP, where his work combines an appreciation for client concerns with a case and project management background derived from both In-House Counsel and large-firm Litigation experience. James is experienced in the areas of financial analysis, trial practice, information management, and data privacy; he has also worked closely with Fortune 500 Legal and Records and Information Management departments, developing organization-specific programs and helping those organizations integrate new technologies into their practices. James is a recognized Certified Information Privacy Professional (“CIPP”) of the International Association of Privacy Professionals (“IAPP”), and serves as a member of The Sedona Conference® Working Group on Electronic Document Retention and Production (“WGI”).