E-DISCOVERY PRESENTATION

E-DISCOVERY 101: BASICS
Agenda

- E-discovery Legal Issues
- Elements of a Litigation Hold
- Identification and Data Mapping of ESI
- Preservation and Collection
- Early Case Assessment
- Processing Options
- Review
- Tools and Best Practices
Litigation Hold

- Purpose of a litigation hold
- When to issue the first lit hold notice
- What recipients need to know about the case
- Who should receive the lit hold notice?
- Examples of lit hold instructions
  - What types of things to say
  - What types of things not to say
- Handling acknowledgements and follow-up notices
- Documentation
Custodian Identification

- General interview process
- Identification of data sources
- Inclusion of various departments
- Identifying “PMKs” for each data source
- Including IT and legal department
- Data mapping
Data Mapping

- **Purpose** - Streamline and reduces costs for:
  - “One-stop shop” for understanding company’s ESI sources
  - Meet and Confer process for litigation (FRCP Rule 26f)
  - Compliance, HR investigations and audits

- **Locations to consider**
  - Local computers and devices
  - Servers
  - Structured data (databases), such as financial systems
  - Communication systems
  - Data hosted by third parties
Sample Data Map

Network File Server - Departmental Shares (J: Drive)

Legacy Email Server (Group Wise)

Network File Server - User Shares (U: Drive)

Instant Message Server

Application Server (IT data)

Blackberry Server

Email Archive

Data Warehouse

Email Server 2003 - Present

(256 User Workstations - 125 laptops/131 PC's)

1/2006

CD

DVD

Removable Disk

1.2 TB

98 GB

697 GB

4/2008

1.2 TB 98 GB 697 GB

2001 - 2003

2003 - Present

1/2006

2001 - 2003

4/2008

2003 - Present

1/2006
Data Mapping - Points to Consider

- Identifying all Active data
- Data Retention Policies for Active Data
- Data Retention Policies for Archived data (system & users)
- Auto delete policies vs. real-life practices
- Legacy systems
- Reasonably v. not reasonably accessible data
- Consistent with existing policies and practices
Preserving Data

- Requires understanding client’s computer policies
  - Interview questionnaire (IT and custodian based)
  - Communicating with IT and “owners” of systems

- Preventing inadvertent deletion
  - Systematic Preservation
  - User (Custodian) driven preservation

- Preservation vs. Collection?
  - Points to consider
  - Data types to consider

- What is reasonable
Collecting Data

• Should the company collect its own data?

• Considerations for various types of data
  • Emails
  • Type of matter
  • Wholesale collection vs. targeted collection
  • User created data
  • Tools for collection
  • Defensibility
  • Documentation
Metadata

- Ramifications when metadata is altered
- Determining what metadata to produce
  - relevancy
  - usability
- Considerations re preservation of metadata
  - authenticity
  - chain of custody
- How the “metadata tide” can turn midway
  - Williams v. Sprint
  - Payment Card Interchange Fee & Merchant Discount
Early Case Assessment

- Manual knowledge-gathering process
  - Information about client’s ESI at the onset (Data mapping)
  - Understanding client’s systems
  - Primary goal - Defensible data reduction
  - Cost benefits

- Technology
  - ECA tools
  - Sift and sort before first-level review
  - Cost benefits
Processing of Electronic Data

• Definition and Work Flow

• Objectives of processing in litigation
  • Deduplication
  • Searching
  • Analysis of ESI (e.g., e-mail threads)
  • Budgeting
  • Early case assessment
  • Sampling

• Technologies utilized for processing and analysis
Considering E-discovery In-house Tools

- Paradigm Shift to In-house control of data
- Challenges in finding the “balance”
- Industry accepted platforms
- Training and Certification
- Need for Documentation
- All in one platform or separate tools?
- Integration of the right people, process & technology
EDRM MODEL
E-discovery and Overall Litigation Strategy

• Importance of e-discovery in context of litigation

• Common pitfalls

• Importance of advanced planning
Q & A