discovery
ie discovery, inc.

E-DISCOVERY CHECKLIST

Employ these practical steps and check-off action items to stay on top of the electronic discovery process at each stage of litigation.

Client Operations	Pre-Litigation	Litigation Starts	Meet & Confer	Initial Disclosures	Discovery	Post-Discovery
Familiarize yourself with client operations, including information systems.		■	■	■	■	■
Determine types of information maintained (data categories).		■	■	■	■	■
Map the network architecture.				■	■	■
Determine how information flows through the network.				■	■	■
Determine procedures for retrieval.				■	■	■
Determine costs of retrieval.						■
Determine costs of past restoration attempts.		■	■	■	■	■
Determine and document "routine good-faith operation of your electronic information system."		■	■	■	■	■

Document & Data Retention	Pre-Litigation	Litigation Starts	Meet & Confer	Initial Disclosures	Discovery	Post-Discovery
Review document & data retention policy.				■	■	■
Determine deficiencies in policy and remedy.						
Ensure compliance with document & data retention policy.						
Disseminate appropriate portions of document and data retention policy to document custodians.					■	■
Provide training on document & data retention policy.						
Determine when preservation starts.			■	■	■	■
Educate clients and employees of the client that duty to preserve starts when they "should have known."		■	■	■	■	■
Educate employees on "should have known" scenarios and advise them to funnel "should have known" matters.		■	■	■	■	■
Implement Enterprise Wide Working Group to review litigation hold procedures.		■	■	■	■	■
Implement Response Team(s) to deal with specific litigation holds.			■	■	■	■
Review and update litigation hold notice.						
Ensure employees of the client understand the policy and purpose of the document & data retention policy.						
Send litigation hold notice.		■	■	■	■	■
Determine immediate threats to data.			■	■	■	■
Interview document custodians.					■	■
Send follow up litigation hold notice.	■	■	■			■
Monitor litigation hold efforts on a recurring basis.						■

E-DISCOVERY CHECKLIST (CONT.)

	Pre-Litigation	Litigation Starts	Meet & Confer	Initial Disclosures	Discovery	Post-Discovery
Backups						
Review the client's formalized backup protocol.		■	■	■	■	■
Determine whether client adheres to the protocol.						
Determine if backup tapes labeled sufficiently.			■	■	■	■
Determine the type of backup performed, i.e. full, selective, incremental.				■	■	■
Implement specific plan for suspension of normal and customary tape recycling.		■	■	■	■	■
Determine financial and resource burden to suspend the customary practice of rotating or recycling backup tapes, tape storage costs, and other expenses.		■	■	■	■	■
Determine the physical location of the backup tapes, i.e. off-site or on-site.		■	■	■	■	■
Segregate and secure backup tapes subject to litigation hold.						■
Information Technology Personnel						
Identify key Information Technology (IT) personnel.		■	■	■	■	■
Establish relationship with pertinent IT personnel.		■	■	■	■	■
Designate and prepare IT personnel to act as 30(b)(6) witness.		■	■	■	■	■
Provide guidance to IT personnel about document & data retention plan, destruction and enforcement of the document & data retention policy.						
Educate IT personnel regarding types of information normally requested through discovery process.		■	■	■	■	■
Educate IT personnel on life cycle of a litigation matter and where help will be necessary.		■	■	■	■	■
Request IT personnel to keep an inventory of stored information.		■	■	■	■	■
Request IT personnel to organize data storage efforts and establish systems that simplify the later identification, retrieval, and production of information.		■	■	■	■	■
Inform IT personnel of the need to document all installations, changes, modifications, upgrades and patches of all hardware and software.						
Review the document request with IT personnel; do not assume that requests are self-explanatory.	■	■			■	■
Electronic Discovery Protocol						
Seek preservation order or send preservation letter.		■	■	■	■	■
Determine best methods for collection.			■	■		■
Document collection and chain-of-custody.					■	■
Confer with opposing counsel to identify the electronic discovery issues and agree on a plan.	■	■		■	■	■
Confer with opposing counsel regarding clawback or quickpeek agreements.	■		■	■	■	■
Confer with opposing counsel regarding key word searches.	■		■	■	■	■
Confer with opposing counsel regarding beginning and ending dates for document & data collection.	■		■	■	■	■
Confer with opposing counsel regarding key witnesses.	■		■	■	■	■
Determine form of production.	■		■	■	■	■
Determine need for cost-shifting.			■	■	■	■
Determine how to deal with duplicates.					■	■
Determine need for redaction.					■	■
Formulate discovery plan.					■	■
Address electronic discovery issues early on with initial disclosures. Fed. R. Civ. P. 26(a)(1).	■	■		■	■	■
Document electronic discovery plan, including issues, employees consulted and conclusions reached.	■					

To learn more about IE Discovery and how our Discovery Management services can support your efforts, call 800.656.8444 or visit www.iediscovery.com.