



PLG

Platinum Legal Group

eDiscovery Orientation



Preservation Hold

- What is it?

“The obligation to protect records and other materials potentially relevant to litigation and subject to discovery”



Preservation Hold

- **It's a Balancing Act**
 - **Competing needs: preserve potentially relevant evidence vs. disruptions of continuing operations**
 - **What is reasonable for each litigation matter may vary**



Preservation Hold

- Why?
 - There is an obligation to preserve but nothing that requires a system, but you must be systematic in approach



E-Discovery

- **What is it?**

An approach to the identification, preservation, collection, processing, review, and production of electronically stored information (potentially relevant to existing or anticipated litigation matter)



E-Discovery

- Metadata - what is it?

It is the marginalia of the paper world

Electronic information gleaned from a native file

EXAMPLE - An *unsigned* memo exists in a paper format with your clients name typed at the bottom but you want to know who's thought process was behind the drafting of the memo.



E-Discovery

- Metadata - what is it?

Most metadata is digital clutter

Users generally do not create metadata,
software/computers create metadata



E-Discovery

- **Metadata – where is it found?**

- File System Metadata

- Date Created / Modified / Accessed
 - Filename and path
 - Owner
 - Author
 - Security settings



E-Discovery

- **Metadata – where is it found?**

Email Metadata

- To/From/CC/BCC
- Subject
- Date Sent / Time Sent
- Date Received / Time Received
- Read
- Delivery path



E-Discovery

- **Metadata – the plan**
 - Identify potential forms of metadata that may be useful in the case
 - Assess the likely relevance of that metadata
 - Are there authentication and admissibility issues where metadata may be needed?



Steps in the E-Discovery Process

- Strategize
- Collect Data
- Prepare Data
- Review Data
- Produce Data



Steps in the E-Discovery Process

- Strategize
 - **Understand the issues**
 - **Define scope** - custodians, infrastructure, data sources, methodologies required
 - **Establish approach** – teams, interviews, acquisition, chain of custody, processing



Steps in the E-Discovery Process

- **Collect Data**

- Servers – email, file, print
- Computers – desktops, laptops, home computers
- PDAs - blackberries
- Networks – document management, shared resources, archives
- CDs / DVDs, USB keys



Steps in the E-Discovery Process

- Prepare Data
 - Chain of custody – access and control
 - Culling – isolating specific information sources, timeframes, deduplication
 - Electronic processing – extraction of metadata, organization of information



Steps in the E-Discovery Process

- Review Data
 - Culling – use of search terminologies
 - Responsive – assessment and tagging of responsive documents



Steps in the E-Discovery Process

- Produce Data
 - Sub-sets - collections of responsive documents for production
 - Data Delivery – establish format of electronic exchange (client, expert, opposing counsel)



IT Considerations

- Roles and Responsibilities
 - Identify relevant positions/people in the process
 - Train IT staff to ensure understanding of responsibilities
 - Ensure representation on the 'litigation team'



IT Considerations

- **Understanding Technology Infrastructure**
 - mapping hardware / software topology
 - types of data that exists
 - location and relationships of data
 - sources of data
 - legacy issues
 - future data creations (benchmarking)



IT Considerations

- Understanding Technology Infrastructure
 - Need to know...
 - what exists
 - where it exists
 - how to preserve it



IT Considerations

- Understanding Technology Infrastructure
 - ***Need to know...what exists***
 - Document management
 - Emails
 - VOIP
 - Proprietary systems



IT Considerations

- Understanding Technology Infrastructure
 - ***Need to know...where it exists***
 - LAN, WAN, external sites
 - Geographically offices / home / people
 - Backup media, servers, laptops, PDAs, external drives, CD/DVDs, USB keys, etc.



IT Considerations

- Understanding Technology Infrastructure
 - ***Need to know...how to preserve it***
 - Backup tapes – strategy on what to pull, rotation/retention policies, legacy issues
 - Hard drives – ‘ghosting’, forensic acquisition, swapping out
 - Metadata – avoid altering



For Further Information

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