



Five Steps for General Counsel to Follow When Preparing for Electronic Discovery

Millions of electronic documents are generated daily by both individuals and corporations, requiring the legal community to actively utilize electronic discovery requests. The following steps are intended to assist general counsel with the electronic discovery process:

Step 1: Assign Ample Resources to the Discovery Process

Electronic discovery must be of the utmost concern to the legal department, as its relevance continues to expand on a daily basis. When faced with an electronic discovery request, executive management will depend on the legal department to minimize the organization's risk and work with the IT staff to understand how electronic information is stored and organized.

Step 2: Communication is Key

The legal department must inform both the IT staff and other relevant employees when a discovery request has been made so that they may work to properly preserve and safeguard electronic information. To ensure the opposing party cannot claim negligent spoliation, notify the IT staff that requested information cannot be deleted.

Step 3: Have Policies in Place Before a Discovery Request is Made

In order to minimize disruption to normal business operations, policies should be created that can be followed in the event that a discovery request is made. Employees must be notified of these policies, as the process of gathering electronic information and creating mirror image copies of hard drives can be a time consuming process. Once electronic information is ready to be collected, the legal department, IT staff, forensic experts, and any other outside counsel should work together to ensure the proper procedures are followed as efficiently as possible.

Step 4: Take a 30(b)(6) Deposition of a Knowledgeable IT Staff Member

This employee should have a clear understanding regarding the manner in which electronic documents are organized and stored. The deposition should include information regarding the processes to be followed to acquire relevant electronic documents.

Step 5: Ensure the Opposing Party has Stopped Destruction of Electronic Documents

Request a motion that ensures the opposing party is no longer destroying electronic documents as part of their normal business operations, as most organizations delete email messages and other documents on a routine basis.