E-Discovery

by Ronald J. Shaffer

Fox Rothschild LLP
ATTORNEYS AT LAW

15 Simple E-Discovery Protocols for In-House Counsel and Businesses

1. Understand how computer and e-mail systems operate (storage, back-up tapes, deletion of information). Don't wait until after you receive a litigation hold notice or subpoena.
2. Identify information sources (PCs, laptops, servers, PDAs, etc.).
3. Designate an e-discovery czar with technical expertise (IT person).
4. Identify and notify all potential persons with responsive information. (Written notice should be sent to all potential sources of information.)
5. Identify and override existing retention policies.
6. Develop search terms (if litigation has been instituted). If not, create a reasonable search criteria in writing that can be justified in the future.
7. Determine reasonably accessible v. inaccessible sources of information. (Availability, cost, storage must be considered.)
8. Determine potential cost and time required to obtain. (Only "reasonably accessible" information need be produced.)
9. Document your compliance efforts. (Paper the file.)
10. Follow-up with noticed individuals to ensure compliance. (Reminders at uniform intervals.)
11. Involve business people and outside counsel in the process.
12. Gather and segregate the information (if information is accessible and can be separated).
13. Identify and remove privileged information. (Create privilege log.)
14. Producing the information (e.g., native format, TIFF files, PDF). Absent specified format, PDF or TIFF files are acceptable.
15. Revisit process from time to time.

For more information contact:

Ronald J. Shaffer, Esquire

215.299.2196 | rshaffer@foxrothschild.com | 2000 Market St., 20th Floor | Philadelphia, PA 19103-3222

Attorney Advertisement

© 2010 Fox Rothschild LLP. All rights reserved. This publication is intended for general information purposes only. It does not constitute legal advice. The reader should consult with knowledgeable legal counsel to determine how applicable laws apply to specific facts and situations. This publication is based on the most current information at the time it was written. Since it is possible that the laws or other circumstances may have changed since publication, please call us to discuss any action you may be considering as a result of reading this publication.