

Hundreds of active litigation matters, terabytes of data, disparate systems, and three weeks until the meet-and-confer.

Are you ready?



“Our professionals have the know-how to assist you with all aspects of your e-discovery efforts in both civil and criminal cases. From the initial investigation to identify potential sources of electronically stored information (ESI) through the preservation, collection, processing and ultimately the production of relevant ESI to support your case.

In addition to our Canadian experience, we have the global reach to ensure large and complex cases are handled in a proactive and efficient manner, when speed and consistency are of the essence.”

Peter Vakof  
Canadian Leader,  
Forensic Technology Solutions

## How can we reduce our risk and cost in the future?

The proliferation of data and the challenges in controlling it effectively have resulted in increased risk and cost associated with legal matters, compliance issues, and operational inefficiencies. How can you stop this seemingly runaway train?

It used to be that a robust file cabinet system and an off-site storage vendor ensured proper retention and protection of corporate information. The current electronic environment produces voluminous amounts of data and exposes confidential, private, and proprietary information to potential disclosure. The ease with which electronic information can be copied and transferred results in data being dispersed across the organization, making it more and more difficult to control and locate. Managing the retention of what you need (and disposing of what you don't) while staying fully compliant with legal, regulatory and other business obligations has become a major challenge. For many companies, this electronic environment exposes them to increased risk to their brand reputation, increased legal liability, and costly discovery efforts.

The cost of responding to discovery matters is rising, and tackling key discovery issues on an ad-hoc, case-by-case basis is resulting in an inconsistent and often inefficient process. The proliferation of electronic and hard copy information is leaving companies faced with the challenges of understanding their data universe (including backup media), identifying qualified employees or vendors, and managing an often inconsistent legal hold and preservation process, and maintaining a retention plan without exposing spoliation risk.

The pressure on the General Counsel's office has never been greater and the IT and Compliance organizations aren't far behind.

The potential for spoliation or discovery mistakes is greater than ever: lawyers who handle companies' discovery obligations struggle to effectively coordinate with overtasked IT resources. Discovery is often performed inconsistently, disjointly, and with numerous handoffs of data. The need for completeness and accuracy of discovery competes with the burden and strain on the company's business and resources.

*The size, scope and complexity of a company's enterprise is no longer a valid defense when spoliation occurs. The expectation is that companies are in control of their systems and should implement and enforce effective preservation measures.*

**Plaintiffs are on the attack:** the size and complexity of company IT environments invite plaintiffs to make frequent and more comprehensive discovery requests. With electronic discovery requests becoming the norm, the expectation is that companies have a plan to respond accurately, thoroughly and without undue burden. Simply reacting on an ad-hoc basis is becoming more and more risky and contributing to exploding discovery costs.

*Plaintiffs are smarter now than ever before, and are doing more research. Discovery responses from matter to matter are being studied, and when documents are produced for one matter, it raises alarm bells if they are not produced in the next.*

**Data environments are highly complex and always changing:** Major companies commonly maintain hundreds of terabytes of unstructured files (e.g. user files, email), thousands of applications, and a multitude of interconnected data storage platforms. Navigating this continually changing environment in a cost-effective manner to accurately identify, preserve, collect and produce relevant information has never been more challenging.

In-house lawyers have always addressed preservation obligations with carefully prepared legal hold notices,

relying on employee diligence to preserve responsive data. However, processes exist in IT that routinely purge, filter and recycle data, none of which is under the control of the recipients of the legal hold notices. Platforms change, legacy systems are decommissioned, data storage capacities are reached, all of which contribute to the disconnect between what legal believes is under preservation and what is actually happening in the company.

**Data volume is growing out of control:** The demand for information services for business users is greater than ever, and users are storing increasing amounts of information in a variety of formats and locations. Disposing of information has become extremely difficult due to challenges of determining what is on legal hold, what must be retained to meet compliance obligations, what should be retained for the best operation of the business, and whose approval is required. Even when designated data is eligible for disposal according to retention policies, often the data either can not be easily segregated from other data or it is outside the reach of centralized control.

**It's a less forgiving environment:** Courts have imposed massive sanctions and countless adverse rulings for omissions and errors in discovery. Sanctions of millions of dollars have been imposed. Damage to brand reputation and to the company's case may even be more significant than the monetary fines, all in addition to the rising cost of discovery.

*Clients are taking a fresh look at their annual legal spend, and realizing that an increasing percentage of it is tied up in information gathering and review for litigation. How much might be saved if the information were already gathered, maintained, and ready to send?*

**Demonstrating good faith is good advocacy:** Your discovery and information management program can itself be evidence of the seriousness with which your company takes its discovery and regulatory obligations. Development of a robust and defensible discovery process is more than just good information management—it's good advocacy.

## We can help

### Tap into a wealth of experience

PricewaterhouseCoopers (PwC) is a national and global leader in the delivery of Discovery Readiness services. PwC's broad range of experience makes our service offering distinctive in the marketplace. We have decades of experience from projects around the world in litigation, investigation and regulatory matters with professionals coming from technology, accounting, risk management and records management, and other related backgrounds. Our Forensic Technology Solutions (FTS) team includes professionals from legal, technology, accounting and other related backgrounds. We have been working closely with our clients in managing discovery and legal technology efforts as a dedicated group since 1990. With more than 350 dedicated forensic technology professionals in over 35 countries, we understand the complexities and requirements of defensible discovery, and are able to translate our proven methodology into recommendations you can take advantage of immediately and processes you can sustain going forward.

## Break out of the bubble and take a wider view

When you call in PwC, you bring to bear a critical eye and a vital outside perspective that can help you identify key gaps, and develop lines of communication between your discovery stakeholders. You gain access to our global network of experienced subject matter and technology specialists, our top-notch processes, and our insight on the most current technology.

Since 1990 we have been working with law firms, discovery vendors, and forensic technology providers. This allows us in-depth and unbiased insight into the industry and allows us to make informed recommendations to meet your needs. We operate regionally, nationally, and globally, and understand the complexity of dealing with varying laws across different jurisdictions.

Our experienced staff brings the perspective of many different industries and corporate cultures. There isn't a one-size-fits-all approach; we tailor our approach to your organization based on our experience and your specific needs and goals. Together, we will help you benchmark your company against the rest of the corporate world. We will aide you in creating a program that fits your company and its litigation profile, and define the people, processes and technology you need to make it a success.

## We “speak IT”

Understanding data and information systems is a recurring roadblock and a crucial challenge to the legal resources of our clients. PwC’s FTS team has the technical knowledge required for mapping, modeling and describing complex enterprise environments. Our professionals rapidly develop a deep understanding of your information systems, bring you key facts to describe your data environment, and develop the scope for your preservation and collection efforts.

## We work with legal and compliance professionals every day

Your data is subject to a myriad of retention requirements—some for legal reasons, some for regulatory compliance, and some for business needs. PwC addresses these requirements by compiling an inventory of your highest-risk data, classifying that data according to its retention requirements, and applying controls that allow you to enforce the appropriate retention rules. Managing your data intelligently allows you to reduce your costs and your discovery risk without running afoul of your legal obligations.

## Efficient processes yield results

With PwC on your side, you’ll have an efficient discovery process that mirrors the discovery response work that we have performed for our clients. You will have a robust and defensible discovery process backed by the global reputation and trusted name of PwC. You will have a deeper understanding of and control over your information and processes, and will be able to apply your retention strategy to it with confidence. Reducing the risk, cost, and reliance on third party vendors is not only good business, its great value.

## How does PwC help clients with discovery readiness?

- We help clients create a defensible discovery process.
- We help clients identify and consolidate active legal holds, and develop processes to help administer the holds, notifications, confirmations and releases.
- We help research and map our clients' data so that discovery practitioners have a single, reliable consistent reference for the various sources of ESI, how to preserve ESI when necessary, and key facts and information needed to explain how ESI is managed in the environment.
- We help clients research, identify, test and implement technology tools to support discovery processes, save employee time and increase the accuracy of discovery work.
- We assist in the development of discovery governance structures, including acquiring new staff, training staff, and change management efforts to communicate the new program throughout the company.
- We help you select and create innovative new vendor relationships to reduce discovery costs.
- We perform system implementation, proof of concept testing, data migration, and data clean up.
- We will help you develop a strategy for the entire information lifecycle of your key data—from creation to destruction—and integrate the people, processes and technologies necessary to provide you with centralized control.

## Where have we helped

PwC has a global reputation for applying rigor, consistency and transparency to business processes and for making transformational change in our clients a reality.

We frequently help our clients overcome the following challenges:

- We don't have a company-wide records and information management program, a consistent legal hold process, or defined Discovery response procedures that link legal and IT.
- We are unsure of the number or scope of the company's active legal holds, and have never or only rarely lifted a legal hold.
- We are uncertain about how to accurately describe our information systems (particularly for meet and confer sessions), their content or their retention periods.
- We never seem to have enough information to feel comfortable disposing of data, resulting in large volumes of retained information, such as email, backup tapes or unstructured content. We may be paying a lot of money for Discovery response since we have a larger volume of data than truly necessary.
- We have rapidly escalating discovery costs, and no effective means of addressing them.
- We are spending more and more on maintenance and storage of increasingly larger volumes of data.
- We have various technologies in place, but don't believe legal fully understands these capabilities and how they can be leveraged for discovery.
- There is a lack of awareness and education in our organization about our requirements around data retention, legal holds and discovery.
- We don't know how to begin the process of changing our current practices and policies or how to engage all the key stakeholders. The tasks seem overwhelming.

## Who to call

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