

SF Legal e-Discovery Case Study



SF Legal Balances Risk Mitigation and Cost Sensitivity by Training End Client's IT Department to "Self Collect" during Electronic Discovery's Data Collection Phase

Situation: Our law firm client called us on a Saturday morning – they needed help and needed it fast. They were representing a publicly-traded Silicon Valley technology company whose Board of Directors was being sued over a rejected merger offer. The suit had been filed in the Delaware Court of Chancery, which was known for lightning-fast discovery deadlines. Counsel had 30 days in which to collect, process, review and produce electronically-stored information (ESI) for approximately two dozen custodians located in several U.S. states and numerous foreign countries.

Besides facing a very tight deadline, the law firm told us that the end client had made it very clear that they wanted to minimize costs by using their internal IT team to perform the collection. Unfortunately, outside counsel soon determined that the end client's IT department did not have any prior experience conducting data collection for use in litigation, much less existing policies, procedures, or appropriate software tools.

We were faced with the challenge of heeding the end client's concern about cost while addressing the inefficiency of their proposed solution. In addition, our law firm client had begun receiving discovery requests from the tech-savvy plaintiffs' counsel demanding accurate metadata, so we knew we had to act quickly.

Solution: On Monday morning we visited the end client's Silicon Valley headquarters with a written, defensible data collection protocol that their IT department could use to ensure consistency, accuracy and thoroughness during the entire project. Next, we conducted a quick training exercise with the end client's IT department using the sample data we provided. This ensured that no actual custodian's data would be used as a "guinea pig."

We stayed onsite to supervise the end client's IT personnel while they performed the first few targeted collections. Before leaving, we provided them with our 24-hour contact information and encouraged them to call or email us if they had questions.

In the following weeks, we conducted numerous after-hours conference calls with the end-client's IT personnel in Asia and Europe to ensure that they, too, properly understood the written protocol. We provided further assistance by performing the collections for a few C-level executives ourselves, and by providing remote access to enable forensically-sound data collections to be performed halfway around the globe.

Benefit: By advising counsel of its options, guiding the end-client's IT departments through the process, designing custom protocols for self collection and utilizing the most advanced technology for remote connectivity, we enabled our law firm client to meet its obligations while satisfying the end client's desire to "self collect" during e-discovery.

Actually, requests by clients to conduct their own e-discovery are not unusual. In fact, we found it to be a significant trend in 2009. Although offering the potential for reduced cost, self collection can present a tough trade-off when the increased risks of missing relevant data, changing metadata, or even court sanctions are factored in. In addition, corporate internal IT personnel generally cannot offer the same "fallback" protection as an outside forensic expert can if (or when) testimony becomes needed.

Fortunately, SF Legal has had numerous opportunities to work creatively and efficiently with many clients to provide a balanced approach to this challenge. Our "assisted self collection" cases perfectly illustrate our "CPR" motto: **C**ost control, **P**rocess management, and **R**isk mitigation. To learn more about how SF Legal's **CPR** can help you breathe a little easier, visit us at www.sanfranciscolegal.com or call us at **415-392-2900**.

