

E-Discovery

Wiley recognizes that the implementation of an effective system to manage and preserve documents and electronically stored information (ESI) is more than a business necessity for our clients; in many cases, it is mandated by law.

The preservation and discovery requirements imposed under the Federal Rules of Civil Procedure (FRCP), and similar laws in some states, can impose substantial burdens on companies. Wiley understands both the practicalities and pitfalls of document retention and electronic discovery (e-discovery) and can help businesses protect themselves from claims of spoliation and other litigation risks associated with e-discovery.

Wiley's e-discovery capabilities include assisting clients in navigating all aspects of electronic information management, including retention, preservation, retrieval and production, as well as counseling clients on best practices in this field.

Our Approach

Each client's document and ESI management, retention, and discovery policies may need to be tailored to that client's specific needs, or to take into account potentially applicable law. Wiley consults with each individual client, including the client's in-house legal and IT professionals, to determine the appropriate information retention requirements that are needed to meet that client's legal compliance and preservation obligations under federal, state, and local rules. We help businesses avoid litigation risks by assisting them in creating customized document and information retention plans that conform to discovery rules, but do not interfere with the client's everyday operations and business.

Our clients benefit directly from our extensive hands-on document and information management and retention experience. In circumstances where litigation is anticipated or active, we are quick to respond by instituting litigation holds and coordinating e-discovery. We work to identify and collect potentially responsive documents and ESI, review these for relevance, and produce them in the necessary format. Working in tandem with a focused Litigation Support Team that has participated in dozens of cases involving several terabytes of data, we have counseled clients regarding document-collection methodologies (forensic and otherwise), review techniques, and productions. All this is done with an eye toward operating with a best-practices methodology that will be fully defensible in all legal arenas.

At the same time, we actively seek to minimize our clients' e-discovery costs. We are able to reduce the amount of time spent on discovery through the use of cutting-edge methods and technology, allowing us to perform e-discovery both efficiently and effectively. In one instance, the firm reduced a client's e-discovery costs by 90%.

Wiley attorneys have decades of litigation experience and a thorough understanding of clients' obligations under state, federal, and common law. Our partners, associates, paralegals, and litigation support specialists work in tandem with attorneys in practice groups throughout the firm and address a variety of electronic management, retention, and discovery issues arising in litigation, privacy, corporate due diligence, special investigations, and regulatory matters, among others. Our attorneys are also frequent authors and lecturers on e-discovery topics and are well skilled in both the legal and technical aspects of e-discovery.

Representative Experience

E-discovery has played a role in several large litigation matters handled by the firm. Our experience includes:

- Partnering with a recognized e-discovery software leader in a \$750 million litigation matter for a computer services company, collecting terabytes of data from more than 500 computer hard drives and several large intranet servers and saving the client more than \$1 million in attorney review time.
- Handling a large-scale investigation with a one-month deadline—focused on a client's government contract compliance— involving the collection of hundreds of thousands of emails from various locations and mediums, then completing all necessary interviews and document review of 100% of the finance and contract operations' documents within weeks.
- Laying the groundwork (in conjunction with the client's IT division) for the successful dismissal of several class action cases by pinpointing only those servers containing databases and programs responsive to the plaintiff's request.
- Successfully representing NTP, Inc. in federal litigation that resulted in one of the largest patent recoveries (\$612.5 million) on record. Integral to our success was our management of multinational discovery, which included millions of pages of paper and electronic documents and scores of depositions, and culminated in a three-week jury trial.