



Control Discovery

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AMLAW 100 Electronic Discovery Quality Survey

Control Discovery offers a wide range of electronic discovery services designed to help law firms and corporate law departments control the cost, quality, and accuracy of electronic discovery. The following survey is the first of its kind in the Electronic Discovery industry.

Summary

“Enterprise IT practices at the firm and individual custodian level accounted for 75% of all reported electronic discovery quality problems.”

A group of 8 survey participants, each from an AMLAW 100 firm, reported a total of 36 incidents involving poor electronic discovery quality. All 36 incidents reportedly occurred in the 12 months prior to the survey.

Case Impact

All but 2 of the 36 reported electronic discovery quality incidents were discovered during the review process. The remaining 2 incidents were reported by vendors themselves. Of the 34 incidents reportedly discovered during the review phase, 20, or 59%, occurred after at least one production had been made. Anecdotal comments by survey participants indicated that the total time required to completely correct each situation ranged from several days to more than 8 weeks.

Discussion

Enterprise IT practices at the firm and individual custodian level were the root cause for 75% of all reported electronic discovery quality problems in this survey. Electronic Discovery vendors accounted for the remaining 25%.

The leading contributor to poor electronic discovery quality was errors closely tied to “Enterprise IT Practices.” Enterprise IT practices are defined as “the IT practices that define the operation of software applications for all employees in the normal course of business.” IT Administrators who configure Lotus Notes to allow certain document attachment types may complicate recovery of email, for example. Slightly over one half, or 54%, of all electronic discovery quality incidents appeared to have a root cause in an enterprise’s routine IT practices.

Another 19% of electronic discovery quality incidents appeared to have a root cause in the personal technology usage patterns of individual custodians. Custodian data practices are defined as “the personal habits and practices in use of software applications in the normal course of business.” Custodians who use certain types of passwords on their Acrobat PDF documents may complicate recovery of information from those files, for example.



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The Electronic Discovery vendor appeared to be solely responsible for about 25% of all reported incidents. Electronic Discovery quality issues attributable to a failure to “properly test processing software or operational documentation” (QA) and those attributable to “missing functionality” ranked about equally within the sample.

| <i>Attributed Cause</i> | <i>Number of Incidents</i> | <i>Percent of Incidents</i> |
|--------------------------|----------------------------|-----------------------------|
| Enterprise IT Practices | 19 | 54% |
| Custodian Data Practices | 7 | 19% |
| Vendor Capability Gaps | 5 | 14% |
| Vendor Software QA | 4 | 11% |
| Custodian Collections | 1 | 3% |
| Total | 36 | (100%) |

Methodology

AMLAW 100 Litigation Support staff was asked to discuss the memorable incidents they personally encountered in the past 12 months that involved what they believed to be poor electronic discovery quality. Each interview sought to gather a description of the specific electronic discovery processing issue, a statement about how and when the problem was identified, and comments discussing the perceived impact on the case.

No attempt was made to gather a statistically valid sample. Individual vendor names, while mentioned anecdotally in many interviews, are not included, as the unscientific nature of the survey would not weight vendor responsibility accurately. Percentage values do not total to 100% due to rounding errors.



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Further Information

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