



Control Discovery

Proven Solutions for Enterprise Compliance

The Dirty Dozen: 12 Leading Indicators of E-Discovery Quality Risk

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 results were derived from a cross-industry survey. This survey was first done in 2005 and repeated again in 2006.

Summary

The effects of e-discovery quality lapses, including review delays, case data errors, and unexpected costs are visible in a wide range of cases, ranging from large-document mass tort and IP disputes to tight-deadline situations involving a client merger and a Hart-Scott-Rodino Second Request review. Leading indicators can be used to predict situations where serious electronic discovery errors are likely to emerge. Solutions to control discovery quality risk include better understanding of client data, more effective vendor selection, and ongoing vendor quality management.

Leading Indicators of E-Discovery Quality Risk

Serious electronic-discovery errors, with their review delays and unexpected costs, are almost always predicted by *leading indicators*. We suggest the following twelve leading indicators of e-discovery quality risk. Control Discovery works from the following list of symptoms to diagnose the specific issues that may jeopardize a case:

1. Delays in e-discovery vendor processing schedule or data deliveries.
2. Unexpected gaps found in e-discovery vendor processing capabilities.
3. Slow vendor response to concerns raised about errors in case data.
4. Delays fixing case data errors attributed to vendor software bugs.
5. Inconsistent or missing data in email, attachments, or native files.
6. Instances of visual corruption in output TIFF image or PDF files.
7. Errors and/or delays between collections, tape, and e-discovery vendors.
8. Seemingly minor data errors that suddenly erupt and cause review delays.
9. Similar vendor errors across multiple data deliveries or cases.
10. Multiple vendor attempts to fix an error in the case data.
11. Lack of data quality control processes discovered in vendor audit.
12. A lack of software quality assurance processes found during vendor audit.



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Myths about E-Discovery Quality

Electronic discovery is an emerging field with few established quality assurance practices. In our work we frequently encounter three misconceptions about e-discovery quality that impede client preparedness, vendor selection, and issue management:

Myth 1: E-Discovery Quality Can Be Taken for Granted.

In our experience, about three-quarters of all electronic discovery errors can be attributed to conflicts between the content of client data and the processing capabilities of the e-discovery vendor. No two enterprise clients run their IT operations exactly the same way. Custodians, like the rest of us, may also have unique work habits that affect their data. As a result, client data often contains a wide variety of anomalies that can lead to e-discovery processing errors. We no longer assume that an e-discovery vendor will be able to handle a case based only on a quick assessment of client data “file types.”

Myth 2: E-Discovery Quality Issues Are Only Caused by the Vendor.

In our experience, only about one-quarter of all electronic discovery errors can be attributed solely to the e-discovery vendor. Vendors increasingly rely on custom software to automate electronic e-discovery processing and deliver the kind of quick turnaround times expected in the industry. When such software is not properly tested, the resulting software errors lead to processing errors in client data. The other three-quarters of electronic e-discovery errors can be attributed to conflicts between the content of client data and the processing capabilities of the e-discovery vendor. Here the operative word is “between”. Both the client and vendor must understand the full range of client IT practices and custodian work habits that are known to lead to e-discovery processing errors. We no longer assume that choosing a good e-discovery vendor is sufficient to ensure smooth electronic discovery for the client.

Myth 3: The E-Discovery Vendor, Once Notified, Will Quickly and Accurately Correct the Problem.

E-Discovery vendors are busy like the rest of us. Operating under tight case deadlines, the first focus once an error is encountered is to fix the data and make the promised delivery date. While it’s entirely appropriate to focus on the immediate problem, often that’s where the effort stops. Fixing the case data only solves half the problem. Unless the vendor fixes the underlying cause, often in the software, and tests the resulting changes, there is an increased risk that the error may recur. We no longer assume the vendor will take immediate, appropriate action to prevent errors from recurring.



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From our experience, we would make the following assertions about e-discovery quality:

- Client data issues can be a large part of the problem.
- Vendors must demonstrate processing *and* software quality.
- End-to-end quality assurance supervision is often helpful.
- Attention to quality assurance reduces risk and saves money.

Solutions

Assuring electronic discovery quality involves the straightforward use of techniques that have become central to the management of nearly every large manufacturing and service business in the United States. Control Discovery has integrated these practices into its core operations to ensure quality outcomes by design, not by so-called “QC inspections.”

Control Discovery also advises law firms, litigation software suppliers, and electronic discovery vendors to help diagnose and correct deficiencies in e-discovery data and litigation databases.

Further Information

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