Huron CONSULTING GROUP

EDiscovery Best Practices
Overview

Be Prepared for the "Nightmare"

- "The best offense is a good defense!"
- Develop solid document retention and legal hold policies
- Monitor compliance with these policies
- Implement legal holds consistently and in a timely fashion
- Know the Federal Rules!

Deadlines, Deadlines, Deadlines

- Discovery is deadline driven! Create a timeline with all stages of e-discovery in mind!
- When does document collection need to be finished to meet our discovery deadline?
- When does processing have to conclude to meet our discovery deadline?
- When does document review have to be completed to meet our discovery deadline?
- How long will it take to get these documents in the appropriate format for production so that we can meet our discovery deadline?

Integration and Communication!

- Close integration between the client, counsel (in-house or outside counsel) and the vendor teams is absolutely necessary.
- Integration efforts must begin at the inception of the collection process and must continue until document production.
- Tight integration can be difficult due to the multitude of players involved: client, counsel, collection team, processing team, hosting team, review team, & production team.

Collection: Know What the Relevant Documents Are, Where They Are, and Who Has Them!

- Conduct your research and determine who the relevant custodians will be!
- Conduct interview with identified custodians to determine possible locations for documents and to identify additional potential custodians
- Determine all possible locations for data within your business entity
- Collect docs from the relevant custodians and from all potential locations
- Use professional collection services for large matters

Processing: How do we get the documents into a usable format?

- Even for small amounts of data, qualified professionals are needed to extract data
- Must ensure that the team chosen to process the data is equipped to handle all types of data encountered in collection
- Processing team should keep and provide excellent records as to amounts of data processed and remaining to be processed
- Team should implement all culling, searching and deduplication approaches available to appropriately reduce the population of documents to be reviewed by the legal team

Document Review: Climbing the Mountain of Documents!

- Training! The document review team must receive detailed and organized technical (database) and substantive (legal analysis) training prior to beginning review
- Once review begins, a qualified management team must examine the work product produced by the review team.
- Metrics regarding both the quality of the review and the speed/productivity of the review must be kept daily.
- The review protocol should be updated and modified as new information is received or as the case develops procedurally.
- Remember, a "watched review NEVER boils!" That's a good thing!!!!!

Production: Getting the Documents Ready to be Delivered

- Leave time for production! Depending upon the type of data, production may take longer than you think
- Make sure you share your specifications for production with your production team EARLY on so that the vendor can prepare

Cost

- The legal review of documents accounts for anywhere from 75% to 90% of the total cost of e-discovery
- Vendors should provide capped or fixed costs for review so that the legal team can appropriately budget for these legal expenses.
- Throughout the collection, processing and review, the management team should provide cost updates.

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