

eDiscovery and Document Management

An ounce of prevention is worth a pound of cure, especially when it comes to eDiscovery. Creating a document management policy before ending up in court may significantly reduce the amount of time and money spent on litigation.

Our comprehensive approach to eDiscovery and document management is based on extensive experience in litigation, technology and the creation of document management policies and schedules. A standardized policy won't work for everyone. The type, size and location of your company, volume of litigation and other factors play a large role in determining how to manage your documents.

With proper document management, you'll have control over your systems and records when a litigation hold is issued and the eDiscovery process begins, resulting in reduced risk and lower eDiscovery costs. This is imperative because discovery involving electronically stored data including e-mail, voicemail, calendars, text messages and metadata — is among the most time-consuming and costly phases of any dispute. Ultimately, an effective document management policy is likely to contribute to the best possible outcome of litigation or an investigation.

Being prepared for eDiscovery

The best and most effective way to make certain that you're prepared for eDiscovery is with a document management policy that:

- Has a clear purpose and scope
- Specifies delegation of authority
- Includes a legally defensible record retention schedule
- Provides specific direction for:
 - Word management/defensive writing
 - Retention/destruction of electronic documents
 - Scanning/saving electronic copies and addressing the issue of authenticity of the record
 - Implementing, observing and terminating litigation holds

- Includes employee training
- Schedules annual audits

Risks of an inadequate plan

Your document management policy is directly related to the total cost, time and eventual outcome of your legal matter. Beyond that, failing to implement a record retention policy and schedule is risky. Here's what could happen:

- Outdated and possibly harmful documents might be available and subject to discovery
- Failure to produce documents in a timely fashion might result in fines and jail time: one large corporation was charged with misleading regulators and not producing evidence in a timely matter and was fined \$10 million
- Destroying documents in violation of federal statutes and regulations may result in fines and jail time: one provision of the Sarbanes-Oxley Act specifies a prison sentence of up to 20 years for someone who knowingly destorys documents with the intent to obstruct a government investigation

Creating your document management policy

Warner Norcross & Judd ensures that the highest standards are used in the creation of your document management policy with a focus on the unique aspects of your business needs. We can:

• Draft your policy, inventory your records and create a schedule for retaining and destroying documents, including electronic versions. We will work with you and your team (typically Legal and IT) to create a data map and IT system inventory that determines what documents exist, where they are, what should be preserved and for how long based on operational and legal requirements, what may be destroyed immediately and who will be responsible for collecting it

- Create policies to guide the process, including a litigation hold, when necessary
- Work with you to train employees: training is essential to compliance and implementation of company-wide policies
- Conduct annual audits to ensure compliance and address any operational and/or legal changes

Putting eDiscovery and document management policies to work for you

When a litigation hold is implemented, our attorneys, paralegals and IT experts use a variety of analytical tools to search, cull and review the affected documents and recordings. We can assist in-house or outside counsel in building your case and can work with opposing counsel to limit your eDiscovery obligations. Given our resources, we can complete any size review without delay.

If you're involved in multiple lawsuits, we can coordinate the work to eliminate overlap and redundancies, even if the cases were filed in other states or jurisdictions.

Contact Warner Norcross & Judd to develop your document management policy as a blueprint to minimizing risk and costs while protecting your business.



Grand Rapids

900 Fifth Third Center 111 Lyon Street NW Grand Rapids, MI 49503 Holland, MI 49423 p 616.752.2000 f 616.752.2500

Holland Suite 310 p 616.396.9800 f 616.396.3656

Lansing 85 East Eighth Street One Michigan Ave. Bldg. 120 N. Washington Square Suite 410 Lansing, MI 48933 p 517.679.7400 f 517.679.7405

Muskegon

700 Terrace Point Rd. Suite 350 Muskegon, MI 49440 p 231.727.2600 f 231.727.2699

Southfield

2000 Town Center Suite 2700 Southfield, MI 48075 p 248.784.5000 f 248.784.5005

A BETTER PARTNERSHIP[®]

Sterling Heights

12900 Hall Road Suite 440 Sterling Heights, MI 48313 p 248.784.5199 f 586.731.0718

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