

CyberBytes



Subject: Strategic Discovery Options

Rarely will an attorney even consider retaining the services of a computer forensics support firm if they don't already have a firm grasp on the potential impact and value that data forensics could have with their case.

For attorneys representing the Producing Party in a litigation matter where documents and e-mails are stored on their client's computer system, the potential of inadvertent spoliation accusations being waged by the requesting party are on the increase. Just by virtue of the fact that continued operation of subject computers where data files are stored, represents the possibility that files relevant to the case could be overwritten, require stringent precautions to be implemented to preserve all relevant evidence. Including the assistance of a qualified data forensics service firm to assure that all anticipated active and inactive data files have been properly preserved to meet all legal requirements and avoid any possibility of spoliation sanctions.

For the Requesting Party, the decision to employ computer forensics in a case is directly linked to the conclusion that the opposing side has not been forthright in producing all relevant evidence that is believed to exist on their data storage systems (PCs, servers, external Hard Drives etc.). Rather than filing for traditional documents and e-mail production requests, the Requesting Party attorney needs to consider taking the request to the next level-by launching a full discovery request that includes the stipulation of producing all "INACTIVE" data files pertaining to the filed complaint. Just by stipulating inactive data in your pre-trial conference, you set the tone that you will not be satisfied with a perfunctory production of useless paper documents that will only waste your time. Putting into

place a deliberate strategy that will help expedite the successful recovery of useful documents and e-mails for your case is what CyberControls, LLC is prepared to assist you with. Whether it is from the earliest stage in formulating the discovery strategy or in the drafting of interrogatories for deposing IT personnel on the opposing side, CyberControls' staff of forensic specialists provide specialized expertise.

When it comes to the data forensic recovery of relevant evidence however, time is of the essence. Where documents or e-mails have been deleted, or subject computers have been re-deployed to new users, or e-mail server's hard drives have had to be replaced – any of these instances make it much harder if not impossible to be successful in recovering the evidence you are in pursuit of. If you need assistance in constructing a pre-trial conference talking point agenda to explain to your opponent and the judge exactly why you are requesting that a forensic image of each subject computer's hard drive be permitted, we can help you with that as well.

To learn more about our firm's service offerings to litigation lawyers, feel free to call us at 847-756-4890, or you can visit our website at www.cybercontrols.net .