



## ESI-DISCOVERY REFERENCE GUIDE

THE DIFFERENCE IS EVIDENCE

### ESI INNOVATORS

Even before the ground-breaking Zubulake decisions (*Zubulake v. UBS Warburg LLC*) and the amendments to the Federal Rules of Civil Procedure addressing Electronically Stored Information (ESI), one company was at the leading edge of e-Discovery – Vestige Digital Investigations.

Vestige services are designed to handle the burdens and solve the complexities litigators face in preserving, reviewing and producing relevant evidence in state and federal cases.

In traditional e-Discovery, attorneys constantly request clients search and copy ESI. Vestige has developed an e-Discovery process that puts the attorney in control. Our **OnePass<sup>SM</sup> Controlled Discovery** creates a universe of Discovery Clone data at the beginning of the case from which data is extracted throughout the litigation.

Once the Discovery Clone data is completed, Vestige's specially trained Electronic Evidence Experts find and prepare the evidence that must be reviewed by attorneys. Whereas traditional e-Discovery requires attorneys review enormous amounts of irrelevant data, Vestige's **OnePass<sup>SM</sup> Controlled Discovery** process delivers to the legal team only the relevant evidence. Once evidence is identified, Vestige assists in the review and production of that evidence.

# 7 RESOURCE STAGES

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## DISCOVERING FACTS IN MATTER

An Introduction to the information and evidence that can be gleaned from examining Electronically Stored Information (ESI).

- Content vs. Artifact
- Machine as a witness
- What to expect in a case
- What you may be leaving behind
- Properly pricing legal services

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## PRESERVATION

A description of what a litigation hold means in a world of ESI and more importantly how to properly execute a defensible litigation hold.

- Tie-in to case law and amendments to FRCP
- Duties of attorneys
- Build or buy decision: Insulating client's IT department
- Preservation Order
- Ready-to-use templates and forms

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## DISCLOSURES

The Federal Rules call for early discussion and cooperation in handling ESI. Many states have similar requirements.

- Rule 26 disclosures
- Local rule disclosures
- Learn how to conduct effective Meet & Confers
- Discussion of state and local rules
- Templates and forms for conducting Meet & Confers
- What is readily accessible – really?
- Confidentiality orders
- Protective Order considerations

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## DISCOVERY

Conducting efficient and effective Discovery that uncovers all the relevant evidence, cost-effectively.

- Drafting a Request for Production of Documents
- Understanding where data exists and how to ask for it

- Drafting an RFP to ensure the production of active and inactive data including relevant artifacts.
- Examining opposing expert/IT
- Sample interrogatories and 30(b) Corporate Depositions
- Sample motion practice

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## PRODUCTION

Choosing the proper form of production is essential for efficient review. Various forms may be needed in a single case.

- Native vs. TIFF/PDF decision
- Use of attorney review tools
- Online review or hosted internally

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## REVIEW & INTERPRETATION

Using technology to get to the facts and to quickly uncover strength and weakness in your case.

- Using metadata to efficiently scope and cull evidence
- Content vs. Artifact
- Review strategies
- Sharing ESI with peers and co-counsel

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## TRIAL & TESTIMONY

“UNDERSTANDABLE, CLEAR & CONCISE EXPLANATIONS”

- Understanding the evidentiary value of the machine as a witness.
- Preparing your Expert for direct examination
- Cross-examining the opposing witness
- Recognizing and distilling technical information
- Understanding certification and credentials surrounding ESI



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