

## Digital Forensics | Opposing Expert Validation | Critique

The following descriptions highlight a variety of matters for which Vestige has been retained to validate and critique opposing experts. Each of these cases are real matters that we have worked, but for privacy and confidentiality purposes the relevant information has been sanitized. These cases are not the entire population of cases matching such criteria, but instead represent a wide sample of the cases we have worked in this specific area. Should you need additional information, please contact us.

### Small-Midsize Company v Individual | IP Theft

A small-midsize company (Plaintiff) had accused an individual (Defendant) of IP theft. A temporary restraining order was issued against the individual for the potentially stolen information and the accusation that a defragmenting application was being run to possibly overwrite the hard drive. Vestige was hired by counsel for the defendant. Vestige imaged the individual's home computer, a Macintosh and did not find anything to support plaintiff's allegations. Vestige then reviewed the individual's work computer and the opposing expert testimony. Many of the conclusions that the opposing expert documented were in contrast to what Vestige concluded. Vestige was able to expose many holes in the opposing expert's testimony. Vestige showed that the opposing expert was just plain wrong in some cases and had stretched the truth in other areas.



### Former Girlfriend v Former Boyfriend | Disk Defragment

This matter involved a contract dispute between an individual (Plaintiff - former girlfriend) and another individual (Defendant - former boyfriend). A big issue in the suit was that someone logged on the computer at night and deleted a mass amount of data. Contained within this data was a contract central to the dispute. Vestige was able to disprove findings of the opposing expert, who stated that data was intentionally overwritten and wiped. Vestige found that the opposing expert did not use proper forensic methods in the acquisition of the computer in question. Vestige was also able to disprove that the event log files were intentionally wiped and files were intentionally overwritten. The Defendant was accused of intentionally overwriting the deleted files; Vestige proved the deletion process was run under the Plaintiff's custody, not the Defendant's. Upon release of Vestige's findings, the Plaintiff voluntarily dismissed her claim.



### Defendant Challenges Expert Fees

Vestige was hired in this matter to determine the reasonableness of the fees that were generated by the Plaintiff's expert. During the course of litigation, the Judge ordered the Defendant to pay the opposing expert fees to which the Defendant believed were exuberant and non-customary. In order to prove Plaintiff's case, Vestige reviewed the work performed and the work required to be performed. Vestige determined that the opposing expert had resorted to manual review of a large volume of data instead of employing technological means to accomplish the same task. This resulted in fees roughly three times the amount that would be charged by a competent forensic analyst with a mastery of industry tools.



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## Replacement Counsel | Validation of Expert's Findings

Vestige was hired by replacement counsel to evaluate and validate the conclusions of a computer forensic examiner that the previous counsel had engaged at the onset of litigation. Upon examining the expert report, the replacement counsel became initially concerned that some of the report conclusions did not appear to be substantiated by the evidence presented in the body of the report. Vestige reviewed the prior expert's report and discovered numerous deficiencies. Vestige conducted the forensic examination from the beginning and arrived at its own conclusions. The prior expert's report relied upon three fundamental findings which, if true, would have fully supported the client's claim. Unfortunately, the prior forensic examiner failed to recognize nuances and exceptions that, when scientifically tested, were shown to have a significant impact on the validity of the documented findings. Moreover, the very facts which were relied upon to pursue the litigation in the first place could never be validated and were actually shown to be impossible. The case resulted in a settlement, but not before an inordinate amount of money was spent needlessly on exuberant fees to the initial expert, two sets of counsel for the Plaintiff, counsel for the Defendant, expert fees for the Defendant and finally Vestige's fees to debunk the initial expert's conclusions.



## Secondary Analysis of Another Forensic Company's Data Results

Vestige was hired to re-examine an IP theft that occurred years ago. The Plaintiff's counsel had another forensic company do the imaging and provide data results. The Plaintiff's counsel was neither confident nor satisfied with the conclusions of the other forensic company. Vestige did an independent analysis and discovered some additional evidence that the other company did not uncover. In this matter, Vestige was able to show the benefit of having independent, secondary analysis completed over a set of data. Armed with the newly discovered information, the client gained a bargaining chip for use in negotiations, which it might not have had otherwise.



## Individual v Company | Production Issues

Vestige used its forensic expertise to provide damage control for its client. Vestige represented a company (Defendant) who was being sued by an individual (Plaintiff) in this matter. The discovery process had been done in-house by the Defendant. The Plaintiff believed that the Defendant had not produced everything. Vestige was able to debunk some of the theories on the proprietary document that the Plaintiff desired. Vestige helped the Defendant find additional search areas to respond to the Plaintiff's request. Although the result of the spoliation went against the Defendant (hiring party), Vestige was able to mitigate discovery damages for its client that could have been much worse.



## Individual v Mid-size Company | Wrongful Termination

Vestige represented an individual (Plaintiff) against a mid-size company (Defendant) involving a wrongful employment termination matter. Vestige was hired to prove or disprove that the Defendant was thorough in its response to discovery requests from the Plaintiff. Vestige found that the Defendant was not thorough enough in its discovery as information was deleted, new computers were purchased, data was disguised and other storage devices were withheld. Vestige successfully defended its process in multiple hearings and won its client a \$250,000 sanction and the Defendant's pleadings were stricken as punishment. Vestige's client was provided a favorable outcome that set up a court hearing for multimillion dollar damages.



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