eDiscovery Assistant

CASE STUDY

How One Law Firm Used eDiscovery Assistant to a Win a $400,000 Recovery

Client Profile:
A Plaintiffs' Employment Law Firm operating on a contingency fee basis.

The Challenge

A lack of deep ediscovery expertise can pose major risks when facing cases involving electronically stored information (ESI). In this case, a wrongful termination suit, opposing counsel failed to preserve and produce key emails and mobile device data despite being on notice to preserve it. This put the firm in the critical position of needing to determine whether sanctions could be pursued under California law.

To mount a compelling motion for sanctions, the firm needed to understand:

- When a party's duty to preserve arises under California law;
- Whether a ransomware attack—occurring two years after the duty to preserve arose—shields a party from its preservation and production obligations;
- What sanctions were available for failure to produce key emails and mobile device data.
- How to draft a bulletproof motion for sanctions, along with supporting briefs and affidavits, to use in mandatory arbitration, while ensuring the discovery issues were preserved for a larger PAGA matter.

The Solution: Leveraging eDiscovery Assistant to Build a Winning Strategy

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Key Steps and Strategy

The client utilized eDiscovery Assistant's curated case law database, leveraging issue tags and search filters to find and review relevant decisions. The process included the following steps:

- **Failure to Preserve Issue:** Search within the jurisdictions of California and the 9th Circuit to identify when the duty to preserve attaches under California law. Select analogous decisions and distinguish others to draft the section of the brief on the duty to preserve.
- **Failure to Produce and Ransomware:** Use "ransomware" as a search term, with no jurisdiction limit, to identify decisions across the country where data loss occurred due to a ransomware attack. Evaluate how the attack impacted a party's preservation and production obligations.
- **Search Result Mapping:** Review the map of search results and note the total number of decisions across the country for use in the brief.
- **Ninth Circuit Focus:** Drill down into decisions within the 9th Circuit for further review.
- **Broader U.S. Search:** If the facts of the 9th Circuit decisions are not analogous, return to the initial broaderU.S.-wide search for decisions across the country.
- **Other Jurisdiction Decisions:** Identify decisions in other jurisdictions that support the argument that the employer's failure to produce—when the duty to preserve arose before the ransomware attack—is sanctionable.
- **Sanctions Search:** Perform an issue search for "Sanctions AND Failure to Preserve" combined with "wrongful termination" to find decisions listing available sanctions across the U.S.
- **Search Result Mapping for Sanctions:** Review 50+ results on the map, identifying cases in both the 9th Circuit and California state courts.
- **Jurisdiction-Specific Search:** Add jurisdiction filters for California state courts and the 9th Circuit to narrow the search.
- **Narrowing Sanctions:** Refine the issue search to include Exclusion of Witness or Exclusion of Evidence as potential sanctions.
- **Review Results:** Review the two most relevant results and draft arguments based on the case law for the motion.
- **Motion for Sanctions Outline:** Use the outline of a Motion for Sanctions in eDiscovery Assistant's "Checklists and Forms" section to create a case-specific outline, incorporating relevant issues, facts, and case law into the brief and supporting affidavit.

Key Benefits

- Accelerated Research: The firm saved several hours of research time with eDiscovery Assistant's ability to drill directly into relevant case law, without needing to sift through irrelevant results.
- Simplified Search: The curated case law database eliminated the need for complex search terms, providing direct access to discovery-specific rulings that mattered.
- Motion Support: Checklists and case law outlines simplified the drafting of the motion for sanctions, ensuring that all critical components were included.
- Cost Efficiency: With the time saved on this motion alone, the firm recouped the cost of their annual eDiscovery Assistant subscription many times over.

Conclusion

eDiscovery Assistant empowered the firm to navigate complex ediscovery issues and craft a compelling motion for sanctions in a highly efficient manner. By cutting through hours of research and organizing key case law into manageable cite lists, the platform proved its value not only in saving time but in driving legal strategy.

For the firm, eDiscovery Assistant's comprehensive and curated database, combined with its practical tools, made the difference between uncertainty and a winning motion—helping them deliver the best possible outcome for their client.