

## **E-Discovery – What every business owner should know.**

Discovery and document production can be a difficult and expensive process. With the growth of electronic communications, the process has become even more complex. Printing your electronic documents or making a copy of the hard drive on your computer is not necessarily sufficient to preserve your electronic records and comply with discovery requirements.

Under the court rules, parties have an obligation to preserve evidence once it is known that a dispute could lead to litigation. It is important that information that might be related to the litigation not be destroyed. This includes not only paper documents but electronic records stored on a variety of electronic media such as emails and voice mail.

Once litigation has commenced, discovery will play a significant role in developing or defending the case and you will need to expend significant effort and economic resources to comply with mandatory disclosures and discovery requests. It is important that all relevant documents be preserved and to avoid spoliation of documents.

Companies should have a document retention policy in place which considers legal and regulatory requirements. So long as there is no pending or threatened litigation, it should be the policy to delete non-essential paper and electronic records that are not required for legal or regulatory purposes. Even though storage is relatively inexpensive, keeping records forever may not be the best approach if they are all subject to discovery.