THE VISIBILITY CHECKLIST: 6 THINGS YOUR EDISCOVERY PROCESS IS PROBABLY MISSING

What you don't see can hurt you. And when it comes to eDiscovery, what you don't see can be costly. Here are six things that are commonly missing in the eDiscovery process that could be increasing costs and decreasing effectiveness — and a checklist of capabilities that could help you address these issues.

1. Accurate Forecasting

The problem
The way discovery is currently practiced often results in a lack of an early understanding of what the budgets and timelines for an eDiscovery project are going to look like.

Why it matters
Accurately gauging the facts of the case as early as possible allows you to make the right strategic decisions and avoid the cost overruns that plague the industry. And when you have overruns on a continuous basis, it can take a big chunk out of an organization's bottom line.

The visibility fix
eDiscovery technology that provides visibility into your data can uncover key trends and minimize the occurrence of late-stage "surprises" that disrupt your forecast and budget.

2. Right-sized Keyword Searches

The problem
Keyword search hit counts lack context or an understanding of the results. For example, not understanding the difference between "Apple" the company and "apple" the fruit can provide you with over-inclusive results. Alternatively, not including misspellings, variations of search terms, or different wording for concepts relevant to the case can leave you with an under-inclusive set of results.

Why it matters
Over-inclusive results — for example, pulling all documents containing the word "apple" regardless of whether it pertains to the company or the fruit — increase the number of documents to be reviewed. Under-inclusive results create the risk that you'll miss key documents.

The visibility fix
eDiscovery technology that provides visibility goes beyond hit counts to provide the context and information necessary to help you understand and iteratively refine search terms to eliminate irrelevant documents and identify additional key terms.

3. Complete Custodian Information — Early in the Process

The problem
Often, interviewees, whether they are bad actors or not, tend to provide answers that are either self-serving or provide the information they believe you want to hear. Further complicating the problem is the fact that they are being asked to recall what happened months or even years ago. Email often becomes an important recorded history of what happened in the business.

Why it matters
Uncovering new custodians late in the process — requiring you to go back and collect, process, and review a new set of data when you are coming up against deadlines — can drive up costs and jeopardize timelines.

The visibility fix
eDiscovery technology that provides visibility not only allows you to start refining keywords as discussed above; it provides access to a recorded history of events that allow you to begin to connect the key people, places, and things earlier in the process.

4. Timely Indications of Collection Challenges

The problem
All data collection is not equal, and there are many factors that could slow the process down or even cause you to miss key data. If there is data containing foreign languages, for example, you may need multilingual expertise. Or if an Exchange database was corrupt and didn't back up for several weeks during the key time frame, you need to document that appropriately.

Why it matters
Understanding where you might run into collection challenges early in the case will not only help you better forecast the time and resources required to perform collection but also protect against the potential for costly court sanctions later on.

The visibility fix
eDiscovery technology that provides visibility into your preservation, collection, and search efforts can better equip you to identify potential data quality challenges or outliers early and plan for them accordingly.

5. Ability to Filter out the Noise

The problem	Even when you've narrowed the target data set to specific keywords, timeframes and custodians, you still need to be able to separate meaningful information from the noise.
Why it matters	In order to understand the stories captured in your data, you need to be able to see the data more completely to identify what's important. This helps you refine your strategies iteratively and ensures that you minimize the amount of "junk" that's moved into the expensive review stage.
The visibility fix	eDiscovery technology that provides visibility enables you to see the data more completely and informs decisions about which documents are moved forward for additional review.

6. Transparency

The problem	eDiscovery is handled by a number of parties — including corporate IT and legal personnel, one or more service providers, and outside legal counsel — and often involves multiple hand-offs. With each hand-off, a great deal of potentially valuable information and work product is never transferred to the next step.
Why it matters	Making the process transparent to the organization, counsel, and the court is critical for defensibility. Workflow transparency is paramount to maximize efficiency, enhance quality, and control costs.
The visibility fix	eDiscovery technology that provides visibility enables you to easily report on data from the time it enters the system to the time it leaves the system — and document who did what, when, and why — ensuring transparency throughout the process.

The Visibility Checklist

By increasing visibility throughout the eDiscovery process, you can address many of these issues and gain significant benefits. Here is a checklist of key capabilities in eDiscovery technology platforms that can help you do just that.

- ✓ **Metadata** — Tells you not just who received emails and from where and when they were sent, but it also reveals the personal and professional networks the mailbox owner belongs to and how the person's messaging behaviors change over time. You can even uncover insights into the chain of command at the organization. All this is available even before diving into the contents of the messages and should be leveraged in early investigations.

- ✓ **Flexible, faceted search capabilities** — Enable you to quickly and easily iterate keyword searches based on more than just raw hit counts, allowing keywords to be removed, expanded, stemmed, and modified iteratively during processing.

- ✓ **Iterative workflows** — Enable you to sample, validate, and refine data and strategies throughout the process so you can start early and "small" to test assumptions and validate trends, refining as you go and gaining insight the entire way.

- ✓ **Early classification** — Bringing classification into the process earlier — *before* review — provides you with valuable information that can help reduce the overall volume of documents that go into review. Using classification techniques such as email threading and near-dupe technology can also help organize the documents that do go into review to improve overall efficiency.

- ✓ **Flexible reporting** — Provides you the ability to report on anything in the system — at any level of granularity — and allows you to generate a variety reports easily and quickly to give you an understanding of why the results look the way they do.

- ✓ **Reusability** — Facilitates the ability to port non-case-specific insights gained through visibility into one case over to subsequent cases. Leveraging workflows and classifications from previous cases enables you to gain visibility even earlier in the process to maximize the value it can deliver.

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