The Culling Fields: Date Range and Custodian Culling

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This is part Six of the continuing series on two-filter document culling. This is very important to successful, economical document review.

First Filter – Date Range and Custodian Culling

Even when you collect in bulk, and do not *keyword filter* before you put custodian ESI in the review database, in most cases you should filter for date range and custodian. It is often possible for an attorney to know, for instance, that no emails before or after a certain date could possibly be relevant. That is often not a highly speculative guessing game. It is reasonable to filter on this time-line basis before the ESI goes in the database. Whenever possible, try to get agreement on date range screening from the requesting party. You may have to widen it a little, but it is worth the effort to establish a line of communication and begin a cooperative dialogue.

The second thing to talk about is *which custodians* you are going to include in the database. You may put 50 custodians on hold, and actually collect the ESI of 25, but that does not mean you have to load all 25 into the database for review. Here your interviews and knowledge of the case should allow you to know who the key, key custodians are. You rank them by your evaluation of the likely importance of the data they hold to the facts disputed in the case. Maybe, for instance, in your evaluation you only need to review the mailboxes of 10 of the 25 collected.

Again, disclose and try to work that out. The requesting party can reserve rights to ask for more, that is fine. They rarely do after production has been made, especially if you were careful and picked the right 10 to start with, and if you were careful during review to drop and add custodians based on what you see. If you are using predictive coding in the second filter stage, the addition or deletion of data mid-course is still possible with most software. It should be robust enough to handle such mid-course corrections. It may just slow down the ranking for a few iterations, that's all.

To be continued …….

Part 1: Two-Filter Document Culling: Advanced Document Review Technique

Part 2: License to Cull: Why Efficient and Effective Document Review is Important to Our System of Justice

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