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Electronically Stored Information (ESI)

The changes to the Ontario Rules of Civil Procedure and the reference to the Sedona Canada Principles have recently focused attention on disclosure of electronically stored information (ESI) in litigation. ESI, however, is required for a variety of legal purposes other than litigation including M&A due diligence reviews, anti-trust reviews, and investigations. Are you and your clients ready for the review and production of ESI?

1

Your client is not typically involved in complex litigation with voluminous documentation so you do not have to worry about learning your clients' ESI retention policies and data systems.

True or False?

2

Because your client is a large corporation with a substantial IT department, you do not need to inquire whether they are aware of their legal obligations with regard to ESI and can feel comfortable knowing they have provided you with all relevant materials.

True or False?

3

Even though your client does not have an immediate legal obligation to review or produce ESI, you should proactively raise the issues.

True or False?

4

Your client suspects that a key employee may have compromised confidential and proprietary corporate information before leaving the company. With a forensic image of the laptop, it is possible to see a list of all files that were transferred from the employee's laptop to an external hard drive.

True or False?

See page 41 for answers.

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