

Farrell Fritz Launches New eDiscovery Practice Group

Seeks to Act as Resource for Small Law Firms

The prevalence of electronic records and communications has dramatically changed the way businesses function. As the use of electronically stored information ("ESI") has burgeoned, so too, has the litigator's obligation to search for, and produce, electronically generated records germane to disputes. This includes emails, word documents, photos, instant messages, websites, text messages; in short, anything created electronically. Recognizing the wealth of evidence ESI can provide in a litigation, courts routinely require attorneys to provide ESI during discovery.

Indeed, the prevalence of ESI has led to new emphasis by the courts on the production of electronic information during the discovery proceedings in litigation.

Why an eDiscovery Group?

With a history of providing forensically-sound ESI services, and recognizing that fulfilling this discovery obligation can be both overwhelming to many companies and outside the capabilities of smaller law firms, Farrell Fritz has announced it is formally launching a comprehensive eDiscovery Practice Group.

The practice group assists the firm's clients and will partner, in the role of Special Discovery Counsel, with smaller law firms/solo practitioners that lack the in-house resources to comply with their e-discovery obligations. The eDiscovery Practice Group can assist clients and law firms with all operative issues, including pre-litigation preparedness; the preservation, collection, review and production of ESI in litigation; as well as with information governance issues related to data security, privacy and records management.

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— Katy Cole, commercial litigator at Farrell Fritz

Sophisticated and Efficient

The newly formed practice group will be headed by commercial litigators Aaron Zerykier and Katy Cole, designated for their backgrounds in this area. The eDiscovery Practice Group is supported by Farrell Fritz's

specially trained staff that includes paralegals and IT professionals and partnerships with outside vendors. With the firm's commitment to developing this practice group, Cole anticipates the firm will continue to invest in people, processes, and as they develop, new technologies.

Both Cole and Zerykier emphasize that the way in which one complies with e-discovery obligations is critical. Zerykier states, "The method of collection needs to be done correctly in order to ensure that the data maintains its original form and is not inadvertently altered. Simply opening a digital file affects information relating to that file. Similarly, copying a document, if not done correctly, can result in its modification. The change may not be evident on the surface and might seem innocuous, but could potentially impact the litigation." Cole adds, "Metadata, which is basically a fingerprint of the document, provides unique information about an electronic file, such as the date it was created, its author, when and by whom it was edited. Whether you are in state or federal court, if you fail to properly preserve metadata, you're exposing the client and their attorneys to adverse inferences and potentially, sanctions. And, sometimes the most benign action can delete, modify or destroy relevant information."

Partner by Your Side

A benefit of working with Farrell Fritz's eDiscovery Practice Group is the comfort of knowing that professionals experienced in defensible and proper collection methods, and who can harness their relevant information, are at the project's helm. "Because you only have one chance to properly collect ESI, one of the reasons our clients retain us is we have the necessary resources and experiences to do it properly," Cole said. "This is invaluable. It insulates our clients from problems down the road."

"While Farrell Fritz has been doing this for years as a routine part of how we conduct litigation, through our eDiscovery Practice Group, we are now providing this as an added value service to others who might be handling a litigation on their own, or who are not well-versed in ESI, or who don't have the requisite capabilities in house," Zerykier added. "It is not easy or cost effective for smaller law firms to maintain, on a day-to-day basis, the resources necessary to comply with still-evolving ESI obligations. We have robust resources in place to collect, review and produce ESI in any given litigation and can make them readily and



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efficiently available to smaller firms."

"ESI has become the way of the world, and the courts are now enforcing production of this evidence. Smaller law firms without the internal resources to comply with ESI requirements can partner with Farrell Fritz," Zerykier concluded.

Farrell Fritz, with more than 85 attorneys and offices in Uniondale, Hauppauge, Water Mill and New York City, provides legal services to businesses, not-for-profit organizations and individuals in many areas of law such as corporate & finance, including emerging companies and venture capital, securities, tax law and distressed assets; healthcare; real estate, including construction, land use & zoning, municipal law, environmental law, eminent domain, condemnation and tax certiorari; commercial litigation, including bankruptcy and creditors' rights; labor and employment law; and trusts and estates planning; administration; and litigation.



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