

## WHY CONSIDER HIRING NATIONAL DISCOVERY COUNSEL IN THE ERA OF ELECTRONIC DISCOVERY?

The difference between today's electronic world of records and information versus the paper world of yesteryear is akin to the contrast between the horse and buggy days and the advent of the automobile. Legal discovery today involves a myriad of sources and types of electronic information that differ greatly from the paper world of old, and it's continuously evolving. Over the last decade, courts have come to expect far more of clients and counsel when it comes to knowing about computer systems, servers, applications, and devices and being able to translate that knowledge into a sensible and defensible discovery response and production.

Yet many companies continue to rely on traditional outside counsel for advice and guidance. Inevitably, this results in companies paying multiple times for advice from different outside counsel on the very same issues. Worse, many companies continue to get widely varying advice from the different firms without any overarching consistency or strategy and almost always without any forward thinking as to cost and risk reductions. Indeed, recent surveys reflect growing dissatisfaction with the status quo when it comes to outside counsel and discovery.<sup>1</sup>

Redgrave LLP's role as national discovery counsel is focused on understanding a company's complex and diverse information environment as well as litigation environment. This simultaneously reduces overall expenses while also lowering the risks that come from inconsistent (or worse) advice from multiple sources. National discovery counsel can be leveraged against all of the separate types of investigations and cases confronting an organization to provide sound, consistent, and repeatable advice for the company. National discovery counsel can also mobilize more easily in the event of challenges to process, such as allegations of evidence spoliation. This approach also frees up the subject matter counsel to focus on resolving the underlying issues on the merits in the most effective manner.

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<sup>1</sup> See BTI Global

The specific tasks of national discovery counsel, in our experience, can and have included:

- Serving as overall discovery counsel to devise discovery strategy, coordinate meet and confer efforts, direct discovery responses, and oversee review and production efforts
- Appearing at select discovery hearings to defend or prosecute discovery related motions
- Preparing and defending corporate representatives regarding discovery and records management issues
- Preparing and executing affirmative discovery strategies
- Conducting internal investigations to assess and test preservation and discovery compliance issues
- Identifying, selecting, and preparing expert witnesses to testify regarding preservation and discovery compliance issues
- Serving as expert witnesses in connection with preservation and discovery compliance issues
- Identifying, selecting, and managing outside vendors for various eDiscovery services

The matters in which we have been involved range from single, one-off matters to Multi-District Litigations (MDLs) and class actions to “bet the company” litigation (involving claims seeking billions of dollars in damages).

Our experience serving in the role of national discovery counsel also spans diverse industries, including financial services, franchising, insurance, petrochemicals, medical devices, pharmaceutical, construction, tobacco, and technology.

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