

E-DISCOVERY

Why should you care about electronic discovery (e-Discovery) as much as Sheppard Mullin does? Because judges and juries do.

Here are some recent examples:

- In 2005, the largest verdict to an individual plaintiff – \$1.45 billion – came after a judge instructed the jury that it could assume the defendant helped to defraud the plaintiff. Why? Because the defendant failed to preserve electronic data.¹
- In 2004, a jury awarded an individual plaintiff nearly \$30 million – \$20 million in punitive damages alone – after being instructed that they could infer that the defendant destroyed information that would have helped prove the plaintiff's case. Why? Because the defendant failed to take reasonable steps to preserve its employees' old e-mails.²
- In 2004, a court awarded \$566,838 against a defendant – in pre-trial sanctions alone. Why? Because it found that the defendant destroyed e-mails instead of producing them to the plaintiff.³

E-Discovery issues arise in a variety of contexts, often even before a lawsuit is filed: from every-day data retention policies, to the preservation of discoverable electronically stored information during litigation; from responding to discovery, to knowing what to ask for and how to get it. Sheppard Mullin has the expertise, experience and technology to do it all. Our Firm-wide-attorney e-Discovery Team is ready to work with you and your IT staff to implement a legally sound, individualized, and cost-effective strategy so you can take advantage of the fruits, and avoid the potential pitfalls, of e-Discovery.

The law of e-Discovery is evolving quickly, and our Team stays on the cutting edge. Well before other law firms focused on e-Discovery, we were already working with our clients on the implications of e-records management. Our e-Discovery team follows the trends emerging from legal opinions issued by federal and state courts around the country. We speak on these issues in public and private forums. We utilize the most current technology. And most importantly, we are prepared when called upon to litigate these matters on behalf of our clients, a fact recognized by judges and opposing counsel alike.

Electronic data is here to stay. Just as you are aware of that fact, so too are judges, juries, and your future legal opponents. Sheppard Mullin's e-Discovery Team will help ensure that the data driving your business also drives *your* litigation – not your adversary's.

[1] Tooher, *Billionaire Investor Awarded \$1.45 Billion In Fraud Suit Against Morgan Stanley* (2006) Lawyers USA [as of Sep. 1, 2006]; Craig, *How Morgan Stanley Botched a Big Case By Fumbling E-Mails* (May 16, 2005) Post Gazette.com [as of Sep. 1, 2006].

[2] Glovin, *UBS Must Pay Ex-Saleswoman \$29.3 Mln in Sex Bias Case (Update5)*, Bloomberg.com [as of Sep. 1, 2006].

[3] Gallagher, *Destruction of E-Mails in Patent Case Results in Sanctions of \$566,838* (Sep. 14, 2004) Law.com Xcelerate/Preview&c=LawArticle&cid=1094073288555> [as of Sep. 1, 2006].