

How the Amendments to FRCP Are Impacting Email Management

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The **Federal Rules of Civil Procedure** (FRCP) that governs procedures for civil suits in U.S. district courts was amended in December, 2006 to cover Electronically Stored Information (ESI) and lay out the ground rules for the electronic discovery (EDD) process. The new rules prescribe a 120-day timeframe for the parties to “meet and confer” and disclose where and how relevant ESI is stored, and the formats for the exchange of information.

The sum of the collection of these recent amendments effectively accelerates the EDD process by months — if not years. This acceleration means that having the tools in place to scour, distill and harvest information from emails gives your legal team a decided advantage in preparing their case and strategy. This advantage can mean millions of dollars to larger corporations that are continuously in litigation, providing an easy business case for investing in EMM and EDD software. It also forces opposing parties to gauge the cost of the EDD process and to possibly move toward settlement sooner if the costs outweigh the value of a potential settlement.

Under the new amendments, organizations must manage the EDD process from the outset of a lawsuit. The more automated and granular the software tool used in that process, the greater the advantage for the respective counsel.

Implementing a robust EMM solution requires that organizations first develop sound email policies and implement the governance processes to ensure these policies are followed. If a reasonable policy is in place and enforced consistently, then an organization may be able to justify deleting archived email and IM messages that could have potentially been damaging. That can reduce risk and ultimately, the cost associated with litigation.

EMM software providers that have integrated EDD capabilities, such as Zantaz, ZipLip and AXS-One, have seen a greater up tick in sales than other EMM solutions.