

RESOURCE GUIDE

The Legal Hold Handbook

By John Tredennick

An essential reference for Legal and IT professionals who want to learn more about the duties and risks associated with the legal hold process.



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Introduction

Our judicial system is firmly rooted on the belief that parties to litigation should share documents and other information prior to trial. In support of that proposition, each party has a duty to identify, locate and preserve information and other evidence that is relevant to that specific litigation. The purpose is to avoid the intentional or inadvertent destruction (“spoliation”) of relevant evidence that might be used at trial.

The key point to understand is that this duty to preserve evidence may arise even before suit is filed or the information is otherwise requested. In 2003, a federal court judge set out the rule for what has become known as a legal or litigation hold.

“Once a party reasonably anticipates litigation, it must suspend its routine document retention/ destruction policy and put in place a ‘litigation hold.’”

This handbook provides a primer on the duties surrounding legal holds and offer tips on how to fulfill your responsibilities as a legal hold administrator.

This resource is a continuation of our “Smart People” series of articles and books and is written for legal and IT professionals who are anything but dummies when it comes to managing litigation. Rather, this series is for smart legal and IT professionals who want to learn more about the duties and risks associated with the legal hold process.

1

What Is a Legal Hold?

Legal holds arise from the the duty to preserve information for pending or reasonably anticipated litigation. In essence, those covered by the hold as well as the organization itself must stop deleting potentially relevant data while the hold is in place. (While legal holds are sometimes instituted for non-litigation reasons, such as for an internal investigation, the focus of this article is litigation.)

Think of it as the start of the litigation process.

Litigation typically (but not always) begins with a hold notice and then continues with communications, collection and preservation for the anticipated litigation. From there, steps can vary but typically include identifying potentially relevant information, positioning it for review by counsel, producing discoverable documents and other data and then preparing for trial.

Here are key items to consider in implementing the hold.

1 Identify key custodians and data stewards.

The first step in a legal hold is to identify key custodians and other data stewards such as IT and records management personnel, information technology personnel, division managers, the legal department itself and others who might have knowledge or data relating to the anticipated litigation.

In most instances, this will turn on your understanding of the issues underlying the anticipated litigation. The courts are mindful that your understanding of the claims and defenses likely to be raised is far from perfect, and will be developed over time as the case proceeds. Rest assured that perfection is not required here; rather, the standard is one of reasonableness under the circumstances.

2 Issue a hold notice.

Once you have identified the key people subject to the hold, the next step is to notify each and direct them to stop deleting documents that relate to the issues in the hold. For individual custodians, this would be a notice to refrain from deleting email or other documents in their possession. For IT personnel, the message would be to suspend any routine document retention/destruction policy that might impact data subject to the hold.

The hold notice can be delivered in several forms, including email, written hard copy or, in some cases, verbal. The key is that the notice should be in a form which is appropriate to the circumstances. There is no rule that says it must be in writing.

That said, the safest practice is to issue it in writing, either by email or hard copy. Some courts have held that a party failed in its duties because it did not issue a written hold notice. While other courts disagree, a written hold notice is the safest course of action and will eliminate later questions as to what message was given.

3 Provide basic information about the hold in your notice.

There is no hard and fast rule governing hold notices. However, courts have suggested that the notice should at a minimum:

- Describe the matter at issue,
- Provide specific examples of the types of information that might be relevant,
- Identify potential sources of information,
- Inform recipients of their legal obligations to preserve information, and
- Include reference to the potential consequences to the individual and the organization of noncompliance.
- Do all of this in clear, plain language.

The notice should also inform recipients whom they should contact if they have questions or need additional information. Ultimately, each situation must be evaluated based on its own individual facts. The preservation notice should be adapted to conform to the facts and circumstances unique to that case.

4 Secure an acknowledgement of the hold.

While an acknowledgment and agreement to honor the hold notice is not absolutely required, it is a smart practice to obtain them from key custodians. Their acknowledgement helps ensure and document that each custodian was aware of their preservation duties and obligations. The agreement to honor the hold reinforces the seriousness of the situation and will demonstrate good faith in your process.

5 Send periodic reminders about the hold.

Litigation can take years to resolve which means your hold may last for years as well. Sending periodic reminders about the nature and scope of the hold is smart practice. While there is no set requirement for reminders, sending quarterly updates will ensure the custodians and IT department know that the hold is still in force.

6 Document the process.

In case your efforts around legal hold notices are questioned later, make sure you document the process from A to Z. What was the understanding of the claim, how were people identified for the hold, who acknowledged the hold, what communications and actions took place and when?

Don't rely on your memory or those of the key custodians. When questions on the hold arise two years later, memories will be dim and often wrong. Employees may be gone and not interested in helping document your steps.

Documentation of the legal hold process should include:

- The date and by whom the hold was initiated and possibly the triggering event;
- The initial scope of information, custodians, sources, and systems involved;
- Subsequent scope changes as new custodians or data are identified or initial sources are eliminated; and
- Notices and reminders sent, confirmations of compliance received (if any), and handling of exceptions.

In addition, you may want to document the process of how a specific legal hold was implemented, including:

- Description of the collection protocol, persons contacted, and the date information was collected;
- Notes (at least as to procedural matters) from any interviews conducted with employees to determine additional sources of information; and
- Master list of custodians, data stewards, and systems involved in the preservation effort.

In the end, failing to document hold efforts is the surest way to make a judge consider sanctions for failing to take reasonable efforts with respect to your hold efforts.



2

What Must I Preserve?

The duty to issue and monitor a legal hold can arise long before a lawsuit is filed. As mentioned earlier, the duty commences or is “triggered” when litigation is reasonably anticipated. At that point, a party must take reasonable steps to preserve potentially discoverable information.

When do you reasonably anticipate litigation? In some cases, the answer is obvious, such as when you receive a summons or complaint, or notice of a government investigation. Likewise, receiving a letter threatening litigation can trigger the duty if the threat is credible and likely to be acted upon. Conversely, if you start the process to initiate litigation against others, that will also trigger the legal hold duty.

In many situations, the answer is not so obvious. For example, not all insurance claims lead to litigation. Similarly, firing an employee does not mean you will be facing a claim for wrongful termination. Nor do all accidents result in legal claims.

Here are some of the key points to consider in determining whether there is a duty to issue a legal hold and preservation request.

1 What is reasonable anticipation?

The key word here is “reasonable.” While it is tempting to phrase the question in terms of what you as the litigation manager actually believe, that is not the standard. Rather, the standard is objective: “asking not whether the party in fact reasonably foresaw litigation, but whether a reasonable party in the same factual circumstances would have reasonably foreseen litigation.” [Micron Technology v. Rambus](#), 645 F.3d 1311 (Fed. Cir. 2011).

Determining reasonable anticipation, and specifically whether a duty to preserve has arisen, will depend on the facts and circumstances of each inquiry. There is no magic checklist

to guide a litigation manager, or any safe harbor for protection. Suffice it to say that if you have received a specific and identifiable threat of litigation or you have taken steps to prepare to bring litigation, the hold duty has arisen.

Put another way, determinations on whether litigation is reasonably anticipated should be based on a good faith and reasonable evaluation of the facts and circumstances as they are known at the time.

2 What factors should I consider?

In general, you should consider a number of factors in determining whether the duty to preserve has arisen. Several worth considering are:

- Has a specific incident arisen that is likely to lead to a claim against my organization?
- Has an individual, or group of individuals, made a credible threat to bring suit against my organization?
- Have we discovered internal wrongdoing or a problem that is likely to lead to a lawsuit?
- What is the risk to the organization posed by the claim?
- Is my organization preparing to bring a claim against another?

If you are on the plaintiff side, the act of seeking advice of counsel, sending a cease and desist letter or taking specific steps to commence litigation is likely to trigger the duty to preserve. The test articulated by several courts suggests that the trigger is often based on when you determined that legal action was appropriate.

In its [Commentary on Legal Holds](#), the Sedona Conference suggests:

A reasonable anticipation of litigation arises when an organization is on notice of a credible probability that it will become involved in litigation, when it seriously contemplates initiating litigation, or when it takes specific actions to commence litigation.

In sum, the duty to initiate a legal hold and preserve evidence arises only when you conclude (or should conclude) based on credible facts and circumstances, that a legal proceeding (litigation or government investigation) is probable.

3 What if one of our employees knows of a threat but doesn't report it to the legal department?


A key question for larger corporations is what constitutes notice of potential litigation. Just because one of your employees hears of a threat (which they may or may not take seriously), is the company on notice such that it should trigger a legal hold?

As a general rule, most courts hold that a corporation knows what its employees know. At the same time, the answer will often depend on the nature of the knowledge, the potential litigation, and the employee's position. The duty arises from reasonableness. If the threat is not made in a reasonably public way, the company likely will not be held responsible to initiate a legal hold.

It is smart practice to ask employees to refer all serious complaints and litigation threats to the legal department. It is better for counsel to consider the threat against the company and decide whether a hold is warranted.

4 Good faith and reasonableness at the time are central to this determination.

Ultimately, if the legal department and the organization act in good faith and are reasonable in making a hold determination, they should be safe. The determination must be based on the facts and circumstances known at the time the decision was made. The test here is based on the good faith and reasonableness at the time the hold was implemented. Hindsight is not allowed, nor can one judge a hold decision using later-developed information.

A black and white photograph of a modern glass skyscraper, viewed from a low angle looking up, with a yellow text box overlaid on the right side.

*If you are on the plaintiff side, the act of seeking advice of counsel, sending a cease and desist letter or taking specific steps to **commence litigation is likely to trigger the duty to preserve.***



3

When Does the Legal Hold Duty Arise?

Implementing a legal hold involves two related inquiries: when does the duty to preserve attach, and what evidence must be preserved? This section focuses on the scope of the required preservation.

In brief, once the legal-hold duty arises, an organization must decide what to preserve and how to do it. In some circumstances, the duty to preserve requires only locating and preserving a limited amount of information. In other circumstances, the scope of the information is larger and the sources of the information may not be immediately known.

Here are some of the key points to consider in determining how to implement the legal hold.

1 Focus on key custodians and data stewards.

The touchstone of a good legal hold process is to focus on key custodians and others managing potentially relevant information. These are the individuals who can preserve data subject to the hold and help prevent losses due to routine business operations.

Once you determine there is a duty to preserve, the organization should begin to identify information to be preserved. The obligation to preserve requires reasonableness and good faith efforts, but it does not require parties to take every conceivable step to preserve all potentially relevant data.

2 Identify potentially relevant information.

In many cases, the sources of potentially relevant information are obvious. Joe Smith's email box and Jane Jones' document files, for example. In other case, the identification of relevant information is much more difficult. Information posted on social media might be a concern in some cases.

Information stored on home computers might also be relevant. Emails maintained in a personal account might provide a third source.

When the issue arises, consider forming a team to flesh out the details of possible claims and to help determine who to contact and where data might be stored. Your team will need subject matter experts along with legal and IT expertise. That team need not be large or require many meetings but instead should be composed of those individuals who can quickly and accurately determine the types and locations of information that may become relevant.

3 Determine the scope of the hold.

The scope of the hold runs to data (documents, email and other sources of information) that is potentially relevant to the claims and defenses in the threatened litigation. Fortunately, the duty is grounded in reasonableness. You are not required to find every scrap of relevant information. Rather, your job is to make reasonable efforts to find and preserve relevant information.

According to [The Sedona Conference Commentary on Legal Holds: The Trigger & The Process](#), factors to consider in determining the scope of information that should be preserved include:

- The nature of the issues raised in the matter,
- The accessibility of the information,
- The probative value of the information, and
- The relative burdens and costs of the preservation effort.

In recent years, the courts and the drafters of the Federal Rules of Civil Procedure have added the concept of proportionality to the discussion. In effect, the question is not only whether you made reasonable efforts to preserve relevant information, but also whether those efforts and the data sought were proportional to the needs of the case. As the court put it in [Rimkus Consulting Group, Inc. v. Cammarata](#), 688 F. Supp. 2d 598, 613 (S.D. Tex. 2010):

Whether preservation or discovery conduct is acceptable in a case depends on what is reasonable, and that in turn depends on whether what was done—or not done—was proportional to that case and consistent with clearly established applicable standards.

[Principle 2.04 of The Principles Relating to the Discovery of Electronically Stored Information](#), Seventh Circuit Electronic Discovery Pilot Program (Aug. 1, 2010), put it this way:

Every party to litigation and its counsel are responsible for taking reasonable and proportionate steps to preserve relevant and discoverable ESI [electronically stored information] within its possession, custody or control.

It should be noted that discovery involves a wide range of both paper and ESI. While most discovery focuses on email and Office documents, databases, instant messaging, voice mail and

any other data that might be relevant to the claims and defenses in the case are discoverable and therefore subject to hold and preservation.

4 Use reasonable and good faith efforts.

The duty to preserve is grounded in good faith and reasonableness. You should take action as soon as is practicable to identify and, as necessary, notify persons likely to have relevant information to preserve the information. However, it is not reasonable to expect you to take every conceivable step to preserve all potentially relevant data. Your job is to consider the sources of information within the organization's "possession, custody, and control" that are likely to include relevant, unique information.

Your duty runs to third parties and contractors who act under your direction and may hold relevant data. In cases where the organization hosts data with outside vendors, reasonableness and good faith require hold notices to third-party vendors as well along with proper steps to ensure preservation of relevant data.

5 Continue to monitor the hold throughout the litigation.

Legal holds are fluid and may evolve during the course of the litigation. In addition, key custodians and other subjects of the hold may forget and inadvertently delete materials subject to the hold. Monitoring the process and reminding custodians is an important step both to demonstrate reasonableness and to protect against mistakes.

Using dedicated tools like legal hold software can make this process easy. Products like Insight Legal Hold and Collection have automated reminders and will allow you to both track and send further notices easily and on a regular basis.

You should also designate someone within the legal department to be responsible for issuing the legal hold notice, answering employee questions, and ensuring ongoing compliance with the notice. For smaller companies, outside counsel may be retained to perform this oversight function. In addition, some courts require that outside counsel have an independent duty to actively supervise or participate in a party's efforts to comply with the duty to preserve.

6 Establish a process to release the hold when the matter terminates.

All legal holds end eventually, either upon the disposition of the case or when you reasonably determine in good faith that a claim is no longer likely to be brought. In either case, the company is free to release the legal hold and take appropriate steps with the data subject to the hold. This may include deletion of the data assuming it is not on hold for other reasons or subject to other retention schedules.

Once you determine that the hold can be released and that the preserved data is not subject to other preservation obligations, you should provide notice that the legal hold has been terminated. This notice should go to the recipients of the original hold notice and any updated notices, along with records management, IT, Management and other relevant personnel, as well as any third parties previously notified of their obligation to preserve.

4

Using Technology to Manage Legal Holds

Over the past year, I have had several opportunities to give talks about the legal hold process and to speak with a number of people from corporate legal departments. One thing I have learned is that many legal professionals, particularly in smaller companies, still manage legal holds using email, spreadsheets or other jury-rigged systems.

When you only have a few legal holds to manage, this can be a workable approach. If your company is like most, however, you have more than a few—sometimes dozens—of holds to manage at any given time. I know of companies who have thousands of custodians on legal hold.

If your legal hold strategy is dependent on manual methods and requires a good memory to succeed, you might be subjecting your company to unnecessary risk. For a lot of obvious reasons, email, spreadsheets and Word files are not a good way to manage legal holds. This is particularly true when you realize that challenges can arise years after the hold itself was initiated, often long after that key employee who administered the hold has left the company. What do you do then?

Legal hold platforms, such as Insight Legal Hold and Collection (Legal Hold), automate the process of creating, sending and tracking legal holds. Many also provide collection services and a secure work space for search, culling and promotion. By automating the legal hold process, these software applications can reduce the risk of sanctions for lost evidence (spoliation), while giving you greater peace of mind and more time to spend with your family in the evenings.

In this section, I will discuss how the right technology can help you better manage the legal hold process. For my examples, I will use Insight Legal Hold, but there are certainly other good products to consider.

Core Functions

A good legal hold platform will provide a simple way to manage legal holds, data collection and data preservation and also to perform early case and data assessment. Here are six core functions that should be covered by the software you choose.

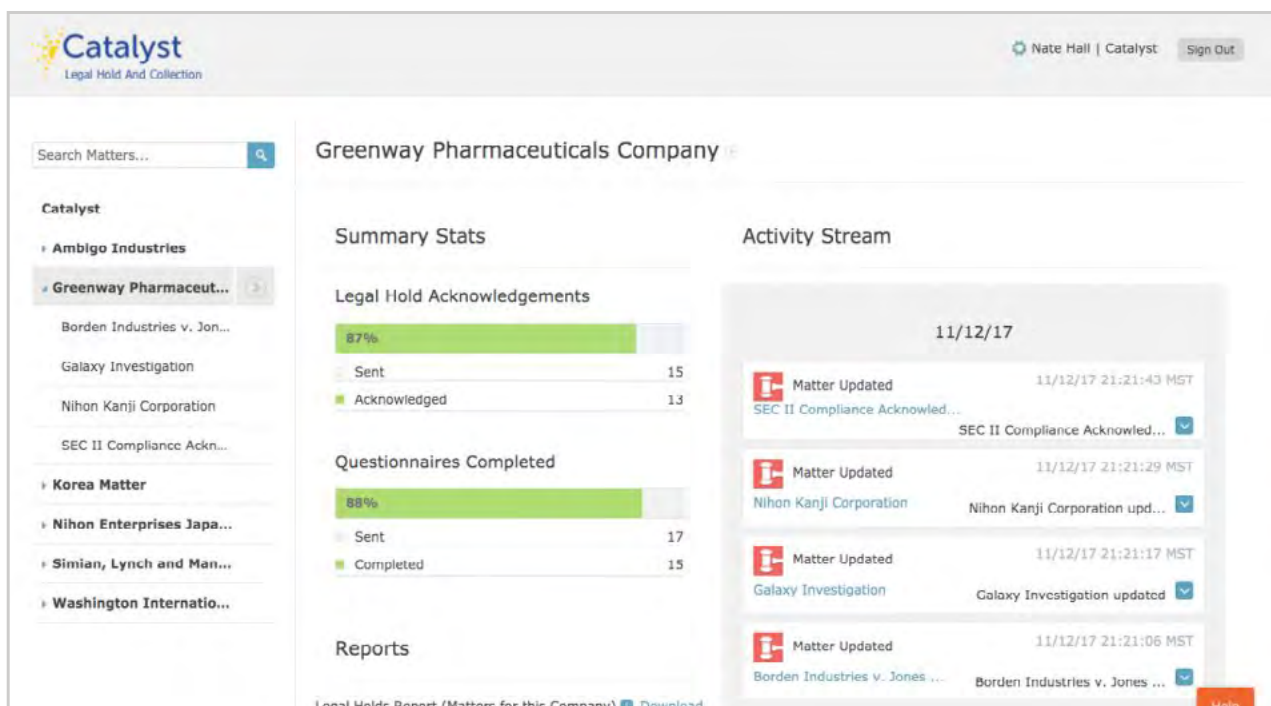
1. **Legal hold management.** Send and track notifications, set automated reminders and meet legal hold requirements.
2. **IT system integration.** Connect with internal email and HR systems to select custodians from different departments or locations.
3. **Employee questionnaires.** Notify and survey key employees to gather important information and identify relevant data sources and documents.
4. **Direct collection.** Collect from custodians located across the globe or directly from enterprise mail, drives or storage networks.
5. **Processing and search.** Search for relevant documents by text and fields after data is automatically processed, loaded and indexed.
6. **Promote or preserve.** Promote relevant documents for review and production or archive them in a low-cost preservation repository until needed.

If your system only performs some of these functions, you might consider what you are missing.

Creating and Managing a Legal Hold

Software such as Insight Legal Hold makes it easy to set up a new legal hold. For example, let's assume that we are working in the legal department for Greenway Pharmaceuticals. The GSWs asked you to take charge of the hold process. A new matter has arisen, so we need to set up a new hold.

Initial View: Insight Legal Hold provides a simple dashboard of your existing matters similar to this example from our demo site. Depending on your position and user rights, you may see only one matter or several of them.



The screenshot shows the Catalyst dashboard for Greenway Pharmaceuticals Company. The dashboard includes a search bar, a sidebar with navigation options, and a main content area with summary statistics and an activity stream.

Summary Stats:

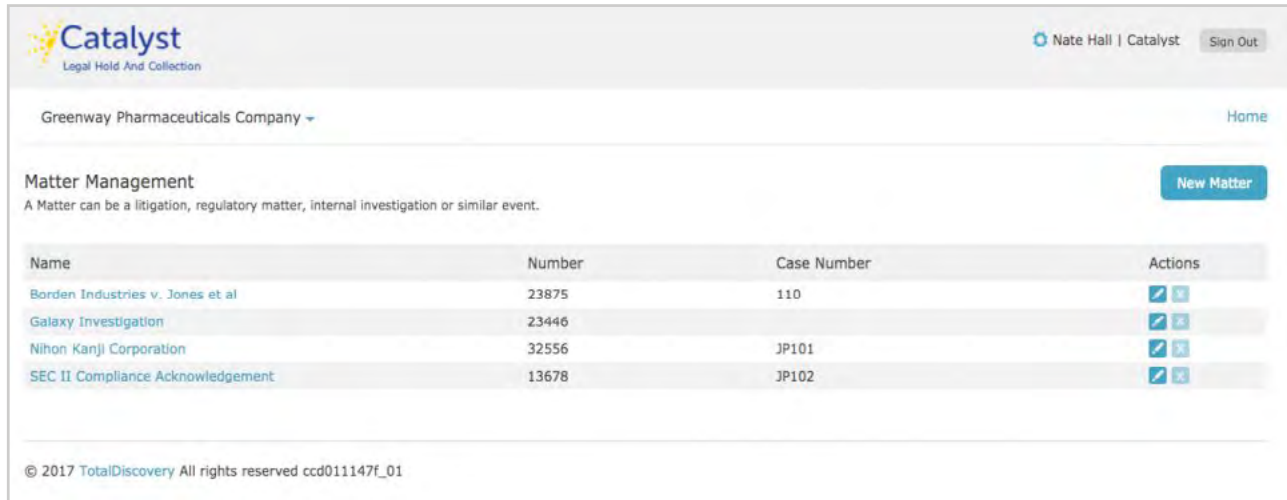
- Legal Hold Acknowledgements:** 87% (Sent: 15, Acknowledged: 13)
- Questionnaires Completed:** 88% (Sent: 17, Completed: 15)

Activity Stream (11/12/17):

- Matter Updated: SEC II Compliance Acknowledged... (11/12/17 21:21:43 MST)
- Matter Updated: Nihon Kanji Corporation (11/12/17 21:21:29 MST)
- Matter Updated: Galaxy Investigation (11/12/17 21:21:17 MST)
- Matter Updated: Borden Industries v. Jones... (11/12/17 21:21:06 MST)

Legal Holds Report (Matters for this Company) Download

From this opening dashboard, you can quickly jump into an existing matter either to create or monitor legal holds.



Catalyst
Legal Hold And Collection

Nate Hall | Catalyst Sign Out

Greenway Pharmaceuticals Company ▾ Home

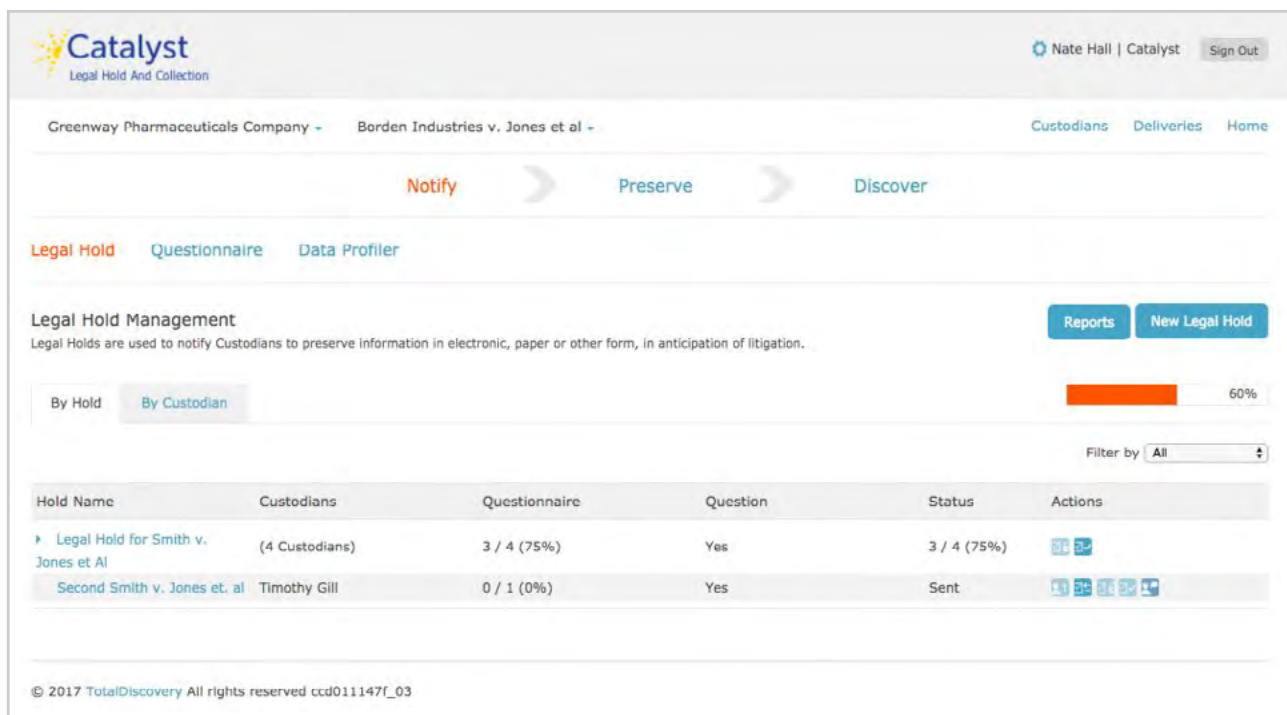
Matter Management New Matter

A Matter can be a litigation, regulatory matter, internal investigation or similar event.

Name	Number	Case Number	Actions
Borden Industries v. Jones et al	23875	110	✎ ✕
Galaxy Investigation	23446		✎ ✕
Nihon Kanji Corporation	32556	JP101	✎ ✕
SEC II Compliance Acknowledgement	13678	JP102	✎ ✕

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And quickly move into a specific legal hold:



Catalyst
Legal Hold And Collection

Nate Hall | Catalyst Sign Out

Greenway Pharmaceuticals Company ▾ Borden Industries v. Jones et al ▾ Custodians Deliveries Home

Notify > Preserve > Discover

Legal Hold Questionnaire Data Profiler

Legal Hold Management Reports New Legal Hold

Legal Holds are used to notify Custodians to preserve information in electronic, paper or other form, in anticipation of litigation.

By Hold **By Custodian**

60%

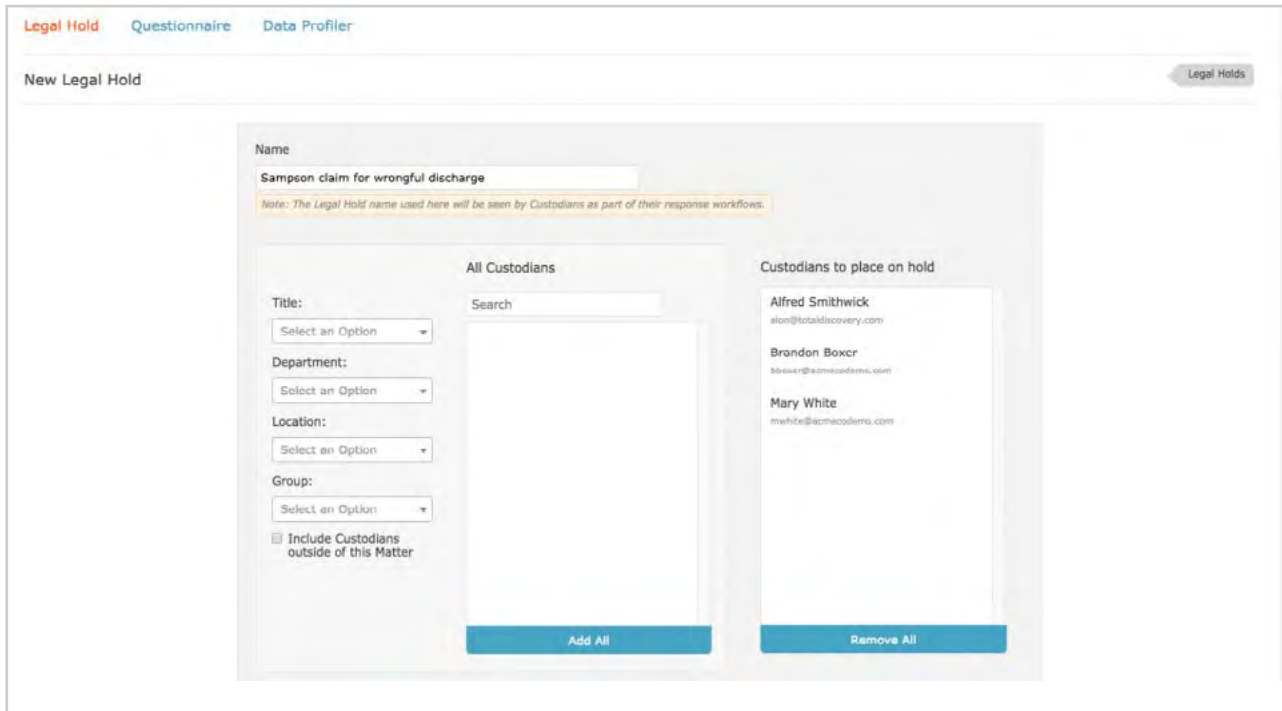
Filter by **All**

Hold Name	Custodians	Questionnaire	Question	Status	Actions
Legal Hold for Smith v. Jones et Al	(4 Custodians)	3 / 4 (75%)	Yes	3 / 4 (75%)	✎ ✕
Second Smith v. Jones et. al	Timothy Gill	0 / 1 (0%)	Yes	Sent	✎ ✕ ✎ ✕ ✎ ✕

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Here, we already have two legal holds in play. You can see the status of each hold in the grid.

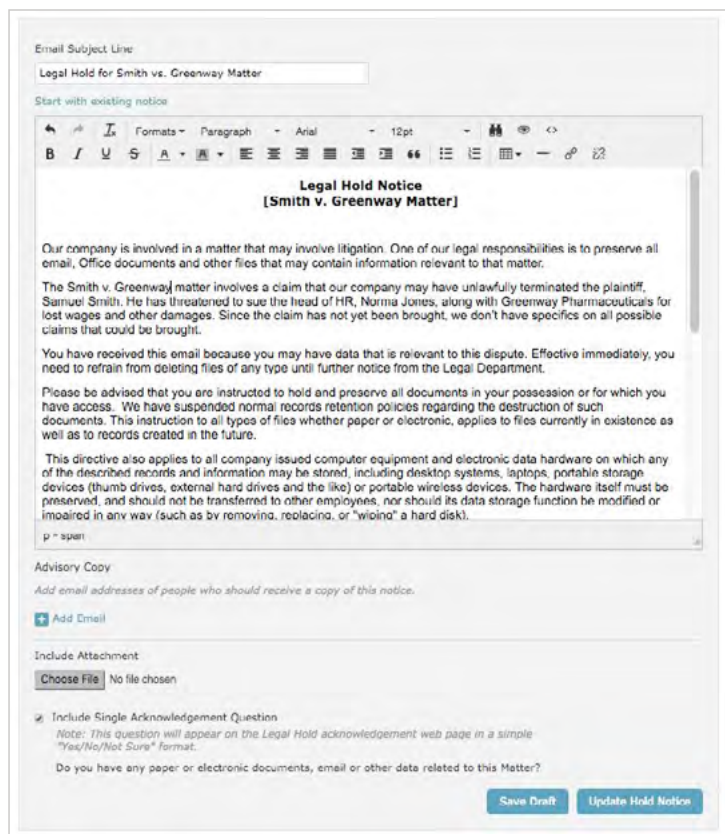
New Hold: In this case the goal is to create a new hold for the new dispute. Start by clicking on “New Legal Hold,” fill out some basic information and choose custodians to be notified.



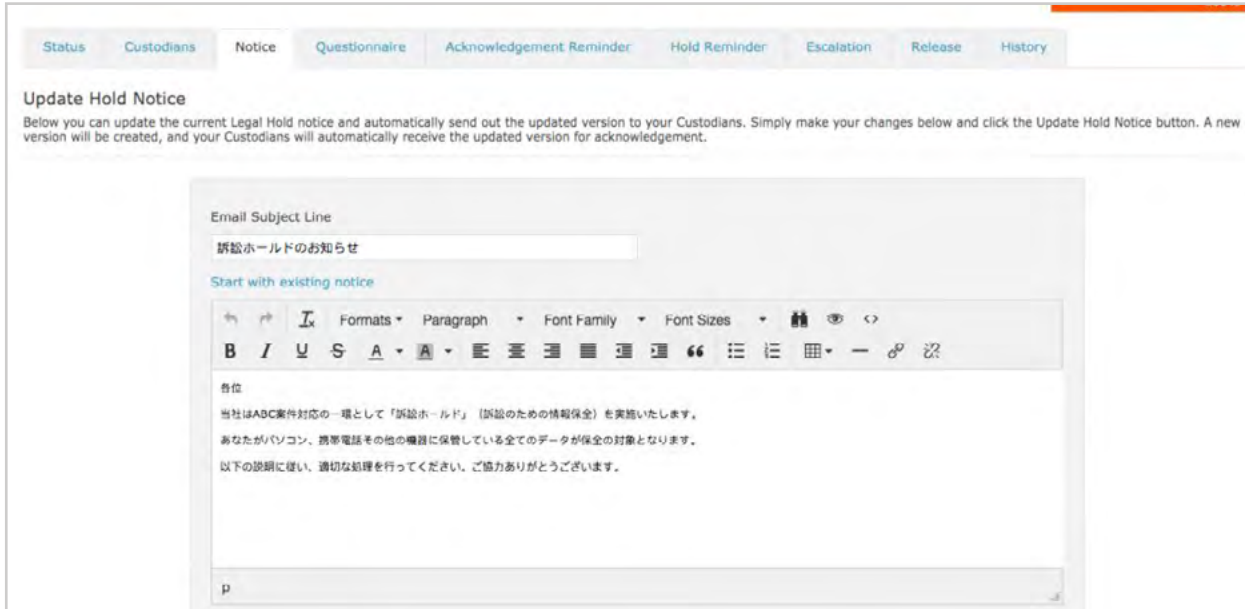
Integration: The ability to choose custodians from your company’s directory system is an important feature in a legal hold program. Insight Legal Hold integrates with a number of corporate directories including Active Directory, Office 365, Symantec Enterprise Vault and others. These connections allow you to choose custodians from around the company, by title, department, location or even workgroup.

Drafting the notice: From here, we can draft a hold notice in just about any form we want using the system’s rich text editor.

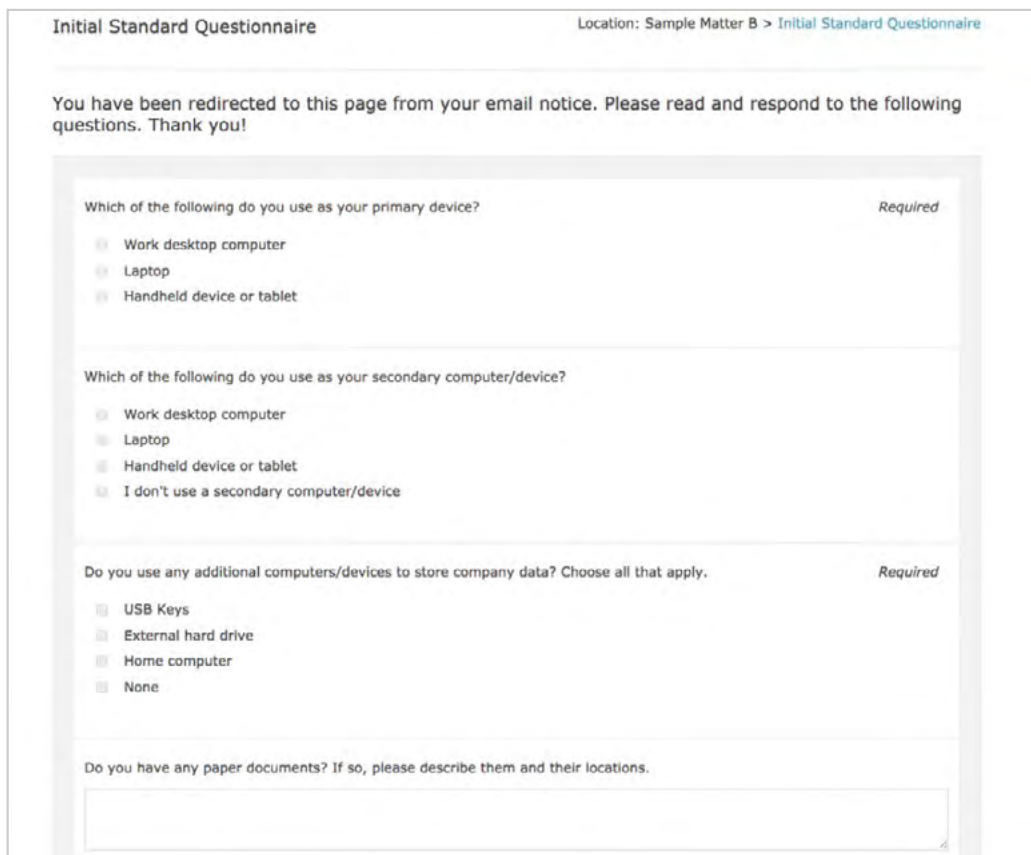
This is one example of a hold notice. Each should be tailored to your needs and situation.



Since legal holds may cross borders, your system should support a wide range of foreign characters as well.



Surveys: We might also want to include a survey with our hold notice. Insight Legal Hold provides a list of standard questions to consider along with the ability to create custom questions.



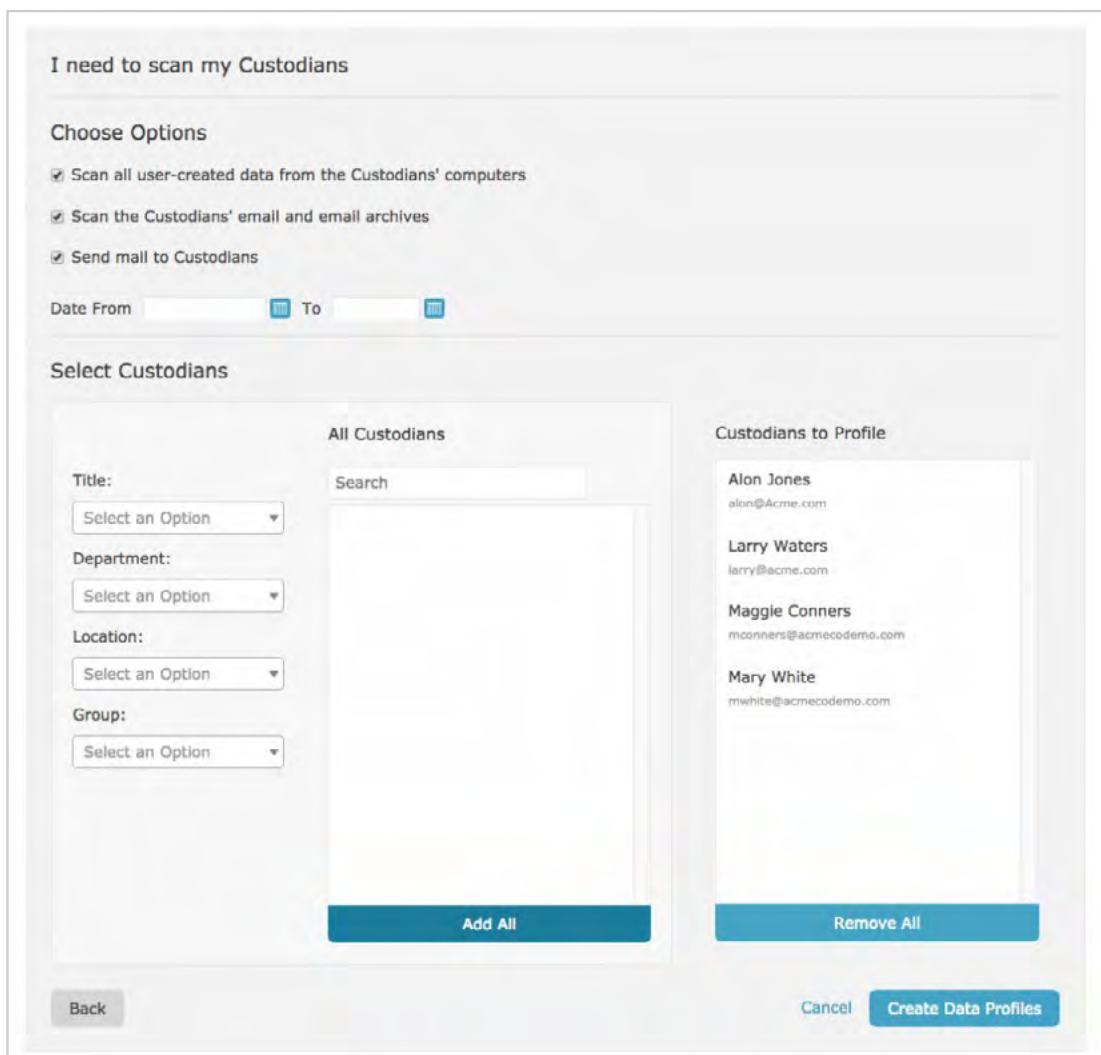
These questions can elicit information about the data held by each custodian, where, when and so on. They can also be tailored to ask about the custodian's knowledge of events leading to a potential claim, or suggestions for other custodians to contact, and anything else that might help you better understand the situation.

Automated Reminders: As a last step, you will want to create automated reminders, both for asking custodians to acknowledge that they understand their hold obligations as for periodically reminding them that the hold remains in effect. Reminders can be configured to go out automatically through Insight Legal Hold as often as is necessary.

Ultimately, those are the tools you need for a basic legal hold process. Most programs deliver some variant of these features but good technology can go much farther.

Profiling a Custodian's Data

In addition to sending notices and reminders, systems such as Insight Legal Hold can also report on the types and volumes of data on a custodian's computer. Here is an example screen for a data profile request:



I need to scan my Custodians

Choose Options

- Scan all user-created data from the Custodians' computers
- Scan the Custodians' email and email archives
- Send mail to Custodians

Date From To

Select Custodians

All Custodians

Title:

Department:

Location:

Group:

Search

Custodians to Profile

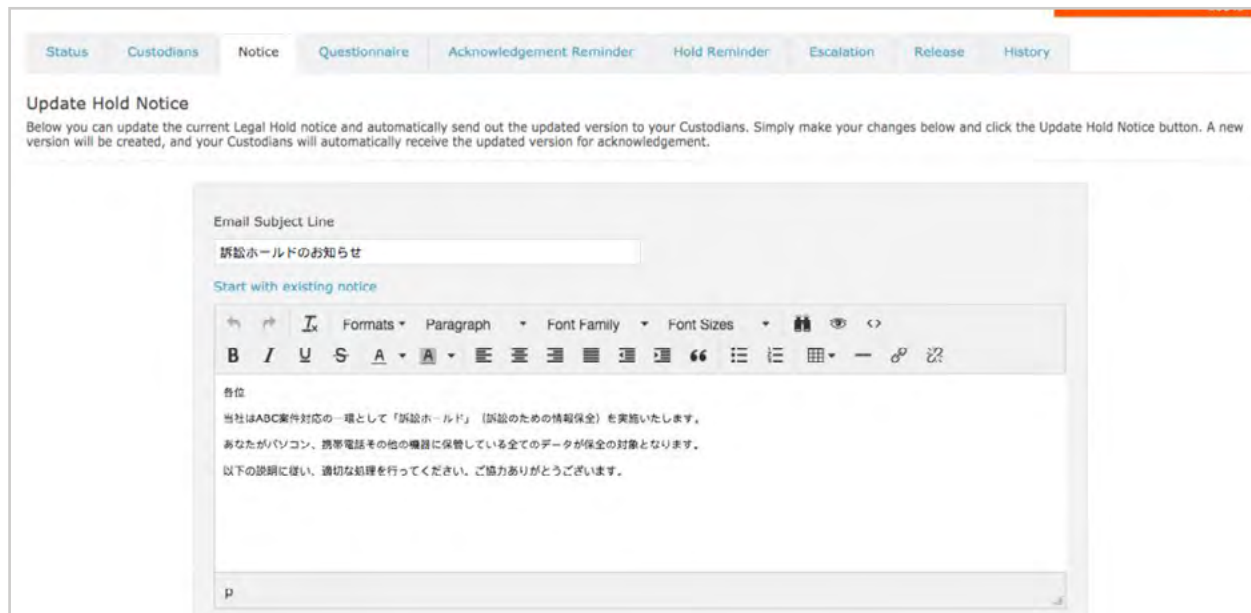
- Alon Jones
alon@acme.com
- Larry Waters
larry@acme.com
- Maggie Connors
mconnors@acmecodemo.com
- Mary White
mwhite@acmecodemo.com

Back

The system runs in the background to collect this data while the custodian is filling out the initial survey. When the process is finished, the system will report on the nature and volume of the data held by individual custodians.

Collecting Data

Insight Legal Hold also allows you to collect data automatically and move it into a secure workspace. Simply fill out the “New Collections” form and choose one or more custodians to institute automated collections.



Collections happen securely via the Internet while the custodian works on other projects. As the data is collected, it is processed and indexed for search and promotion. Data can be sent for review in Insight or to a preservation archive to hold in case it is needed at a later time.

Reports and Auditing

A significant advantage of Insight Legal Hold over manual methods is tracking of every step taken from the initial notice through to closing the legal hold. Through its dashboard, you can monitor responses and reminders and download survey results, collection reports or promotion information.

Insight Legal Hold also provides audit trails to help ensure the defensibility of the process and allow you to resurrect hold efforts—years later when memories fade or key employees have departed.

Insight Legal Hold can accommodate specialized and custom reports regarding all aspects of the legal hold, data preservation and discovery process as may be required by your particular enterprise content management strategy.

Suitable for a Range of Matters

Legal hold software such as Insight Legal Hold is suitable for cases of any size, from just a few custodians to tens of thousands, and for a wide range of matters. Among the types of cases where it can be used:

- **Civil actions.** In civil litigation, legal hold technology helps reduce spoliation and costs.
- **Regulatory requests.** Legal hold technology lets you take immediate action to preserve and review data in response to federal, state or international regulatory requests.
- **Internal investigations.** When an internal matter warrants investigation, legal hold technology enables you to gain early insight.
- **Labor and employment.** HR matters can be voluminous, but legal hold technology enables you to gather and preserve evidence efficiently.

In any of these matters, a platform such as Insight Legal Hold can save you time and money by automating the many interrelated tasks required to perform and manage legal holds, track responses, send reminders, profile data, and preserve and review data.

The Bottom Line

In this guide, I have explained why and how companies implement legal holds, when the legal hold duty arises, and what must be preserved. Perhaps the most important lesson for you to take away is that a legal hold is serious business. Failure to properly implement and execute a legal hold can result in serious consequences for your company.

Given this, you can understand why spreadsheets, emails and other jury-rigged matters are risky methods to rely on. A simple mistake like neglecting to contact one of the key custodians, or failing to get an acknowledgment could lead to lost evidence and charges of spoliation.

Contact Catalyst Today for Your Discovery Needs catalystsecure.com | 877.557.4273



About the Author

John Tredennick is the CEO and founder of Catalyst Repository Systems, which designs, builds and runs the world's fastest and most powerful software platform for complex e-discovery, regulatory investigations and compliance. A former trial lawyer and litigation partner with a large national law firm (20+ years), John has written or edited five books and countless articles on litigation and technology issues and has spoken before legal-technology audiences in five continents. Recently, *The American Lawyer* named him one of the top six e-discovery trail blazers in its issue on the "Top 50 Big Law Innovators of the Last 50 Years." He also served as chair of the American Bar Association's Law Practice Management Section and was editor-in-chief of its flagship magazine *Law Practice* and the founder and editor of its webzine *Law Practice Today*.