Spoliation Prevention Checklist

A practical checklist for implementing evidence preservation under FRCP 37(e)

WHEN LITIGATION IS ANTICIPATED

- [ ] Issue written litigation hold notice to all relevant custodians
- [ ] Identify all sources of potentially relevant ESI (email, cloud storage, devices, evidence platforms)
- [ ] Suspend routine deletion/recycling policies for relevant data
- [ ] Confirm custodians acknowledge receipt of hold notice
- [ ] Document the date, scope, and recipients of the hold

EVIDENCE COLLECTION

- [ ] Compute SHA-256 hash of every file at time of collection
- [ ] Record file metadata (name, size, type, source, collection date)
- [ ] Store original files in a system that prevents modification
- [ ] Document the collection process and personnel involved
- [ ] Upload evidence to Attested in Preserved evidence mode
- [ ] Organize files by case using Attested's cases/matters feature

ONGOING MANAGEMENT

- [ ] Log every access to preserved evidence (who, when, IP, action)
- [ ] Enable litigation hold on preserved evidence to restrict deletion
- [ ] Conduct periodic hash verification to confirm integrity
- [ ] Monitor custodian compliance with hold obligations
- [ ] Update hold notice if scope of litigation changes
- [ ] Enable recipient identity verification on all share links
- [ ] Track view activity and download receipts for documentation

BEFORE TRIAL OR PRODUCTION

- [ ] Verify current hash matches original collection hash
- [ ] Prepare FRE 902(13) certification under 28 U.S.C. Section 1746
- [ ] Generate access audit trail documentation
- [ ] Create formal discovery productions with Bates-numbered logs
- [ ] Download view receipts for court documentation
- [ ] Provide certification to opposing counsel with required 14-day advance notice