
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