

[Your Name/Law Firm]
[Address]
[City, State, Zip Code]
[Email]
[Phone Number]

[Date]

[Opposing Counsel Name]
[Law Firm Name]
[Address]
[City, State, Zip Code]

Re: [Case Name and Docket Number] - Meet and Confer Regarding Spoliation of Hard Drive Evidence

Dear [Opposing Counsel Name],

I am writing to meet and confer regarding the recent disclosure that specific hard drives relevant to this litigation have been [wiped / destroyed / misplaced]. Based on our review of the discovery produced to date, it appears that your client failed to take reasonable steps to preserve electronically stored information (ESI), resulting in the negligent spoliation of critical evidence.

The lost data includes [Describe specific hard drives or data sets lost], which were under your client's control and subject to a preservation obligation beginning no later than [Date duty to preserve arose]. As these devices contained information central to [Specific claims or defenses], their loss results in significant prejudice to my client's ability to prosecute/defend this matter.

Under [Applicable Rule of Civil Procedure, e.g., Rule 37], a party has a duty to preserve evidence when litigation is reasonably anticipated. We believe your client's failure to implement an adequate litigation hold or to suspend routine data destruction policies constitutes a breach of this duty.

We request that you provide the following information by [Date] to avoid the necessity of a formal motion for sanctions:

- A detailed explanation of when and how the hard drives were compromised;
- A list of all efforts made to recover or restore the data from backups or forensic mirrors;
- A description of the litigation hold instructions provided to the custodians of these drives;
- Proposals for remedial measures to cure the prejudice caused by this loss.

If we cannot reach an agreement regarding the restoration of this data or an appropriate stipulation to address the prejudice, we will have no choice but to seek relief from the Court, including but not limited to, an inherent power sanction, an adverse inference instruction, or the shifting of costs for forensic recovery attempts.

I am available to discuss this matter via telephone on [Date] at [Time]. Please let me know if that time is convenient for you.

Sincerely,

[Your Signature]

[Your Printed Name]