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Qualcomm Case Provides Many E-Discovery Lessons, Says Greg Fordham of K&F Consulting Inc.

ALPHARETTA, Ga. -The recent decision in the *Qualcomm* case, 2008 WL 66932 (S.D.Cal), is just one more in a rapidly increasing number of decisions involving large monetary sanctions due to e-discovery misconduct. Greg Fordham of K&F Consulting, an e-discovery firm in metro Atlanta, says that this case offers many lessons for attorneys working with digital data.

“The most obvious lesson is that e-discovery cases involving large monetary sanctions for discovery misconduct are becoming commonplace,” says Fordham.

In this case, Qualcomm withheld more than 46,000 e-mails that were relevant to the Defendant’s case. As a result of Qualcomm’s failure, the Defendant was awarded \$8.5 million in monetary sanctions to cover attorney’s fees, expert fees, and other costs related to the case. In addition, six of Qualcomm’s outside counsels were referred to the State Bar for possible ethics violations. Those same six along with five in-house counsels were ordered to participate in a comprehensive Case Review and Enforcement of Discovery Obligations (CREDO) program.

“Clients are not the only ones being sanctioned,” continues Fordham, “Attorneys are getting hit as well, and therefore need to be more engaged in discovery.”

In a recent article, *Qualcomm Decision Provides E-Discovery Lessons*, Fordham examines the many e-discovery lessons that can be learned from the Qualcomm case.

Fordham also compares the *Qualcomm* decision to the 2006 *Phoenix Four Inc v Strategic Resources Corp.* decision where the Defendants and their counsel were ordered

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to reimburse Plaintiffs equally for any statutory costs and attorneys' fees associated with bringing the motion.

In the end attorneys must realize that they are a critical part of the preservation and production process of their clients' discovery documents, and if they aren't they could be looking at more than monetary sanctions for the party they are representing.

The entire article can be downloaded from the K&F Consulting website at www.knfcon.com/qualcomm.html .

About K&F Consulting Inc.

With offices located in the metro Atlanta area, K&F Consulting services a nationwide clientele. The firm provides a variety of e-discovery, damages quantification, and computer forensics including database forensics and software forensics services. For more information on K&F Consulting visit www.knfcon.com or call 770-642-0311.