

# EnCase® Legal Hold

## Puts the “Hold” in Legal Hold

### Legal Hold Case Law

#### In re Hawaiian Airlines

A principal witness in a bankruptcy case involving Hawaiian airlines received a legal hold notice and responded by deleting relevant evidence. The court issued an adverse inference instruction against the company because it “simply told [the custodian] to preserve all evidence and trusted him to comply,” rather than taking reasonable steps to prevent spoliation. The company was held to have facilitated the misconduct even though the custodian acted in bad faith. *In re Hawaiian Airlines, Inc.*, 2007 WL 3172642 (Bkrcty. D.Hawaii October 30, 2007).

#### Cache La Poudre Feeds, LLC v. Land O’Lakes, Inc.

The Court found Land O’Lakes at fault for simply directing employees to produce relevant information and relying on those same employees to exercise their discretion to determine what documents to save. See *Cache La Poudre Feeds, LLC v. Land O’Lakes, Inc.*, 244 F.R.D. 614 (D. Colo. 2007)

Preservation obligations imposed under statutes, regulations and Rule 37 of the Federal Rules of Civil Procedure state that there is a duty to preserve relevant information when litigation can be anticipated. Many current litigation hold solutions, however, do not provide an integrated technical means to systematically collect and process data from custodians subject to litigation holds.

EnCase® Legal Hold addresses the duty to preserve relevant information in anticipation of litigation. It enables corporate legal departments to identify and notify custodians of legal preservation holds, and with its tight integration with EnCase® eDiscovery, the solution gives organizations the ability to actually enforce holds at the outset of litigation. Additionally, companies can manage, track and report on the actual collection, preservation and processing of electronically stored information (ESI).

#### Automate Custodian Email Notification Workflows

Corporate legal departments can use EnCase Legal Hold’s simple Web-based interface to automate and track custodian email notification workflows. They can receive, compile and analyze custodian acknowledgments and create customizable, open-ended or multiple choice case-related interview style questions.

#### Issue, Monitor and Enforce Litigation Holds

In conjunction with EnCase eDiscovery, organizations can now maintain a complete chain of custody from the moment the duty to preserve documents occurs, through the eDiscovery phases of search, identification, collection, preservation, processing and exporting documents into load file format for review. Using a single case database, corporate legal departments can issue litigation holds, interview custodians and monitor compliance with the holds.

#### Use Court Validated Technology to Ensure ESI Preservation

Once the duty to preserve arises, organizations can take advantage of court validated EnCase® technology to enforce litigation holds on all types of unstructured and semi-structured data residing on desktops, laptops, local PSTs and NSFs, email servers, file shares, attached storage devices, Documentum servers and other data repositories. All collections are conducted from a central location, and the ESI is preserved in an EnCase® Logical Evidence File, hashed for full chain of custody and evidentiary integrity, thus fully automating the process of documenting collection and preservation activity.

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### Our Customers

Guidance Software's customers are corporations and government agencies in a wide variety of industries, such as financial and insurance services, technology, defense contracting, pharmaceutical, manufacturing and retail. Our EnCase® customer base includes more than 100 of the Fortune 500 and over half of the 50, including: Allstate, Chevron, Ford, General Electric, Honeywell, Mattel, Northrop Grumman, Pfizer, UnitedHealth Group, Viacom and Wachovia.

### About Guidance Software (GUID)

Guidance Software is recognised worldwide as the industry leader in digital investigative solutions. Its EnCase® platform provides the foundation for government, corporate and law enforcement organisations to conduct thorough, network-enabled, and court-validated computer investigations of any kind, such as responding to eDiscovery requests, conducting internal investigations, responding to regulatory inquiries or performing data and compliance auditing - all while maintaining the integrity of the data. There are more than 28,000 licensed users of the EnCase technology worldwide, and thousands attend Guidance Software's renowned training programs annually. Validated by numerous courts, corporate legal departments, government agencies and law enforcement organisations worldwide, EnCase has been honored with industry awards and recognition from eWEEK, SC Magazine, Network Computing, and the Socha-Gelbmann survey. For more information about Guidance Software, visit [www.guidancesoftware.com](http://www.guidancesoftware.com).

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