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

ONGOING MANAGEMENT

- ☐ Log every access to preserved evidence (who, when, IP, action)
- ☐ Restrict deletion capability for held evidence (litigation hold)
- ☐ Conduct periodic hash verification to confirm integrity
- ☐ Monitor custodian compliance with hold obligations
- ☐ Update hold notice if scope of litigation changes

BEFORE TRIAL OR PRODUCTION

- ☐ Verify current hash matches original collection hash
- ☐ Prepare FRE 902(13) certification under 28 U.S.C. § 1746
- ☐ Generate chain of custody documentation
- ☐ Provide certification to opposing counsel with required advance notice