

# Case Study

eDiscovery

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## Kramon & Graham PA

Forensic analysis helps Baltimore litigation firm prove spoliation and recover \$8.5 million through a default judgment.



*"When early indicators put us on alert for the possibility of spoliation of ESI, we needed to move to another level. We needed a partner with forensics expertise."*

—Jean Lewis, Principal,  
Kramon & Graham PA

**KRAMON &  
GRAHAM PA**  
ATTORNEYS AT LAW

### ABOUT THE CUSTOMER

Baltimore's Kramon & Graham is widely regarded as one of Maryland's premier litigation firms. The firm is accustomed to bet-the-company litigation and is proud of its reputation for handling high-stakes litigation matters. Going strong for more than 40 years, the law firm has built a diverse practice and serves a wide range of people and businesses — with unending dedication to professionalism and preparation.

The firm has received the highest levels of recognition in many notable industry publications, including Chambers USA, Best Lawyers, Martindale Hubbell and more. It has also been recognized by the Baltimore Sun as one of the area's top workplaces. Since its founding, the firm and its attorneys have supported Baltimore's culture and charities, with many of its members serving in leadership roles on boards and advocating for legal aid service organizations.

Most impressively, when area lawyers or law firms need legal services themselves, many of them turn to Kramon & Graham.

### CHALLENGE

- **Analyzing data to determine if evidence was "wiped"**
- **Forensic expertise required to prove spoliation**
- **Processing extraordinarily high volumes of data**
- **Forensically acquiring data quickly and cost effectively**

This was not a normal bankruptcy proceeding. The debtor had been avoiding his creditors for years, and Kramon & Graham suspected he and his confederates were concealing assets. To win the case and recover assets for the benefit of the bankruptcy estate, the law firm needed to prove that the debtor maintained a beneficial interest in properties he said belonged to other family members, and ESI would be critical. But in the course of gathering that data, Kramon & Graham encountered evidence that the debtor had destroyed significant evidence.

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To prove spoliation, Kramon & Graham needed more than conventional eDiscovery services. The firm needed forensics expertise to demonstrate wiping had occurred, and convince the judge that the defendant had destroyed data.

Initial reports produced by our Digital Forensics experts revealed that some files from the defendant's computers had in fact been deleted. Upon further examination, it was also confirmed that a wiping program had been used for ESI destruction.

## RESULTS

- **Default judgement based on spoliation resulted in recoveries totaling \$8.5 million**
- **Defensible proof of spoliation**
- **Accelerated resolution of the case**
- **Cost-containment based on targeted approach**
- **Successful outcome for the client**

By partnering with Ricoh's Digital Forensics Services for its forensic analysis, Kramon & Graham was able to prove that intentional spoliation had occurred. Along with testimony from one of our forensic experts, Kramon & Graham demonstrated that massive destruction of ESI had occurred, avoiding what could have been years of litigation and recovering \$8.5 million through a default judgment. In addition, because the law firm did not have to process the entire data collection from the defendants' computers and devices, the firm avoided the time and cost commitment of a typical comprehensive eDiscovery process.

Kramon & Graham achieved an outcome that materially benefited its client. Substantially contributing to that successful outcome was the expert guidance and consultation that Ricoh provided from beginning to end of the case. And now, the law firm knows it has a trusted resource and advisor to quickly and cost-effectively help them prove spoliation if ESI destruction is suspected in future cases.

## HOW WE DID IT

- **Remote data collection tool**
- **Follow-up analysis of deleted files**
- **Cleaner and optimization application to detect/prove wiping**
- **Expert forensic testimony at bench trial**

Our Digital Forensics Services experts deployed remote collection devices to acquire full forensic images of the defendants' computers and then provided active file listings to Kramon & Graham. But the law firm suspected some records could have been deleted from the systems. Our in-depth analysis uncovered deleted records and found evidence that a wiping program was used to destroy files.

Next, we tested the cleaner and optimization application to validate artifacts left behind when the wiping took place. This revealed that every time a collection of data was required by the defendant, wiping occurred shortly beforehand. The defendant claimed no wiping had occurred — that they were merely optimizing and enhancing their computers' performance.

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During the bench trial, one of our forensic experts provided testimony to support the law firm's case by testifying to user wiping and that wiping does not optimize computers. In fact, it is a data destruction process. We also helped the law firm formulate questions to debunk the claims of the defendants' expert witness, and leveraged those same statements to the plaintiff's advantage. Our forensic expert spent a week on-site at the trial, and then listened in via phone for the remainder of the trial, providing insights attorneys could use during cross examination.

Along with testimony from one of our forensic experts, Kramon & Graham demonstrated that massive destruction of ESI had occurred, avoiding what could have been years of litigation and recovering \$8.5 million through a default judgment.

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Learn more about **Ricoh Services and Solutions** or **contact us**

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