

# Cheat Sheet: eDiscovery in the Collaborative Messaging Era



Chat platforms have exploded in popularity. [Slack alone claims nearly 80% of Fortune 100 companies use its platform](#) with 18 million active users, and [Microsoft Teams commands the lion's share of users in 2022](#), claiming 270 million.

Ten years ago, email dominated corporate conversations, but by 2014, chat platforms had taken

off. In today's post-pandemic hybrid workplace, reliance on email and other traditional corporate communication channels has decreased. Employees have moved communications to less formal channels, including chat, video conferencing and texting. In litigation, as these conversations shift, so does the forensic expertise required for effective eDiscovery.

## Meeting Discovery obligations

Litigants and their counsel on both sides of a case have important forensic responsibilities. Below, we provide key guidance on Defendant's and Plaintiff's counsel obligations.



### JUDGE'S BENCH



#### DEFENDANTS

**Often need to prove a negative or prove a conversation did not happen and should:**

- Provide all critical evidence required to meet Discovery obligations
- Take a strategic yet comprehensive approach to data identification
- Ensure a competent understanding of how data sources were designed and used
- Document & show your process for providing a negative.
- Ensure the approach is expansive, rigorous and transparent



#### PLAINTIFFS

**Need to make the court aware of defendants' discovery shortcomings and should:**

- Determine what must be analyzed; know what is knowable
- Ensure defendants produce all relevant evidence as required under law
- Demand comprehensiveness that goes beyond the export capabilities of Slack or Teams
- Pursue anything that may be missing
- Analyze all available data in a phased and strategic approach

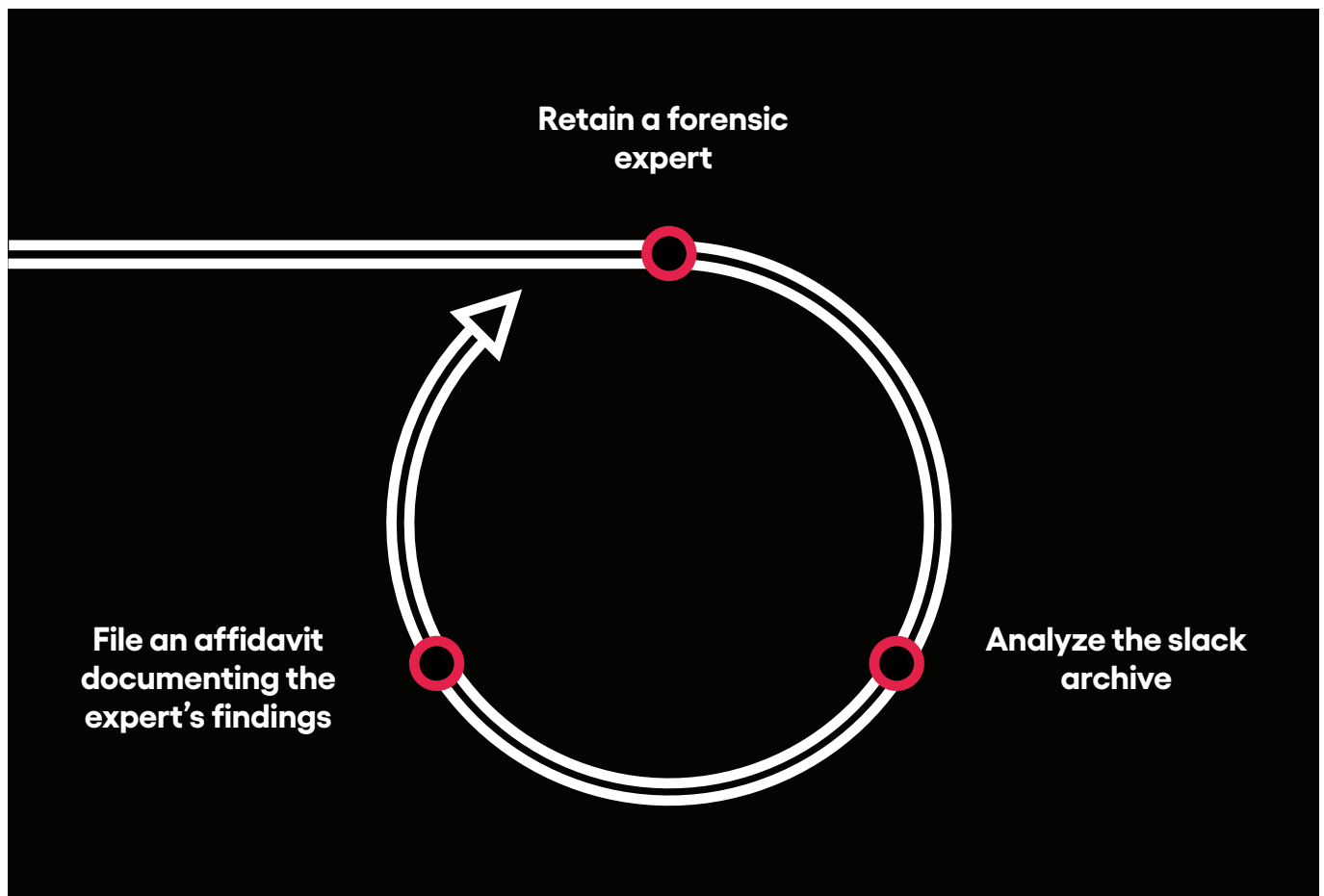


# Details often make or break cases

In a [recent case](#), after repeated failures to meet discovery obligations and produce the relevant, required evidence, defendants were ordered to provide the plaintiff a complete Slack archive. More comprehensive data parsing and analysis surfaced the smoking gun that led to the judge's rare default judgment.

"The Court only allowed us five days to retain a forensic expert, analyze the Slack archive and file an Affidavit documenting the expert's findings," noted John Sten, Armstrong Teasdale Partner and Boston Office Managing Attorney, and Red Wolf's counsel. "It was during this forensic analysis that UnitedLex expeditiously found evidence of repeated failures to produce required documents. These findings, together with their expert testimony, were pivotal to vindicating our client's position."

## 5 days to deliver. Inside the court ordered countdown to:



Plaintiffs who fall short can also pay a steep price. When defendants successfully show nothing happened and point out how they would have more comprehensively performed any verifications in the plaintiff's role, judges have awarded adverse inference instructions against those plaintiffs.

## Brings certainty to Discovery with UnitedLex

The most incriminating conversation might begin in chat, move to email, then to text, and finally to a call, before moving back to chat. UnitedLex digital forensics are at the forefront of technologies, and understand proper acquisition, ex-traction, and analysis methods, allowing us to reconstruct conversations—revealing critical details others miss. Ensure your approach is comprehensive. We can help.