



bit-x-bit's Forensic Examination Finds "Smoking Gun" Email and Violation of Court's Preservation Order, Resulting in Favorable Settlement for Client

The Challenge

Find electronic evidence to establish that the husband failed to disclose the existence of certain oil and gas rights which he sold for more \$300,000, just days after executing the Marriage Property Settlement Agreement.

Meeting the Needs of the Client and Counsel

In early 2011, bit-x-bit's client agreed to a division of marital assets and executed a Marriage Property Settlement Agreement in which she deeded to her husband all right, title and interest in a 162 acre piece of property. The Court entered a Decree, which included the Marriage Property Settlement Agreement, and *just sixteen days later*, her now former husband sold the oil and gas rights associated with the 162 acre property for more than \$300,000, having never disclosed this potential marital asset.

Suspecting that the husband began negotiating the sale of the oil and gas rights *before* he executed the Marriage Property Settlement Agreement, bit-x-bit's client filed a lawsuit to recover her share of the value of the oil and gas rights. Her counsel also obtained an order from the Court directing her husband to preserve all electronic evidence contained on his home computer, and to turn over the computer to bit-x-bit for examination. bit-x-bit prepared a protocol for the forensic examination of the husband's computer and then began its investigation, looking for evidence that the husband knew about the pending sale of the oil and gas rights before he executed the Marriage Property Settlement Agreement.

bit-x-bit's forensic examination, conducted by Brett Creasy, CCE, revealed that just *ten days after* the Court ordered the husband to preserve all electronic evidence on his computer, he installed a wiping program, the equivalent of a paper document shredder, which permanently removed documents and other electronic evidence from his computer, including the web sites he had visited, emails and documents, and important metadata.

However, the husband's evidence destruction activities failed to destroy all of the potentially relevant electronic evidence on his computer, and just as counsel had had suspected, bit-x-bit found evidence that the husband had begun negotiating the sale of the oil and gas rights for the 162 acre property *before* he executed the Marriage Property Settlement Agreement. The electronic evidence included visits to various Pennsylvania oil and gas websites by the husband, a secondary copy of the destroyed email between the husband and the purchaser of the oil and gas rights, and evidence that he accessed an agreement of sale document that was no longer present on his computer.

The Result

The recovery of the "smoking gun" email prior to the husband's execution of the Marriage Property Settlement Agreement, and his destruction of the electronic evidence after the Court's preservation order forced a settlement of the case, resulting in bit-x-bit's client receiving her share of the proceeds of the sale of the oil and gas right, and reimbursement of her attorney's fees and bit-x-bit's expert fees from her husband.