# Data Solutions Planning For 2021 Kris Araya, Scott Carvo, Madelaine Lane and Janet Ramsey December 1, 2020 \*\*Cotto Warner Norcores - Judd LIP\*\* These materials are for educational use only. This is not legal advice and does not create an attorney-clear relationship.

## Kris Araya



- Litigation attorney with a focus on commercial litigation and risk management
- Specialties include business litigation, document and information management, insurance coverage disputes, products liability defense, banking and securities litigation
- Represents corporate clients such as: closely held businesses, manufacturers, and financial institutions on risk management, dispute resolution and best practices

### **Scott Carvo**



- Litigation attorney with a focus on eDiscovery
- Specialties include restrictive covenants, employment issues and tax litigation
- Represents clients in state and federal courts, the Michigan Court of Appeals, the Michigan Tax Tribunal and local government entities
- Oversees large-scale eDiscovery review processes for Warner

### **Madelaine Lane**



- Trial attorney with a focus on white collar criminal defense
- Represents both corporate and individual clients facing compliance violations and criminal charges across a wide array of industries
- Represents witnesses and defendants in complex criminal cases and conducts internal investigations for major corporations and within higher education
- Coordinates responses to grand jury subpoenas and counsels witnesses and targeted individuals

### **Janet Ramsey**



- Litigation attorney with a focus on complex (highstakes) commercial litigation
- Represents corporate clients in mass tort and environmental litigation, and false advertising and unfair competition
- Represents a wide array of industries, from agriculture and automotive to financial institutions and pharmaceuticals
- Manages the entire litigation process from start to finish — and all its parties — to ensure a cost-effective and winning strategy

## **Agenda**

- 1. Document Management 2021 Checkup
- 2. eDiscovery Audits
- 3. Zoom Best Practices



## **Document Management 2021 Checkup**

- 1. Covid-19
- 2. Privacy Laws
- 3. Annual Review



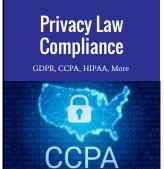
# COVID-19 "New Normal"

### Working Remotely

- Temporary files v. Permanent Files
- Home office security and access
- Policy Implementation

### COVID-19 Health Screening

- Retention Policy
- Confidentiality
- Storage
- Do HIPAA, Privacy, or Breach laws apply?



### Personal Information

- Which records have it?
- For what purpose is it used?
- How long is it kept
- Can you access it?
- Is it secure?
- Do we do business in EU or California?

# Annual Review

### **Growing Pains?**

- New documents?
- Change in company structure

### Up-to-Date Schedule?

- Modified regulations or statutes of limitation
- Changed operational considerations

### **Practical Implementation**

• Is it working?

**Be Prepared: eDiscovery Audits** 



# Benefits of an Audit

- Identify and Leverage Strengths
- Assess and Manage Weaknesses
- Identify Opportunities for Cost Savings
- Litigation Preparedness

# Stengths & Weaknesses

- Litigation Hold Process
  - Collection
  - Staffing
- Communication between IT, HR, Inside Counsel and Outside Counsel
- Early Case Assessment

# Cost Savings

- Early Case Assessment
- What to Collect
- Big Data Management
- Technology-Assisted Review
- Project Management
- Staffing

# Be Prepared

- Have a Plan
- Identify Key Personnel and Location of Data/Documents
- Engage Opposing Counsel/Prosecutor Early
- Start Early

# **Zoom Planning and Management**

# **Zoom Defaults**



- Password Requirement
- Recording
- Annotations
- Shared Documents
- Chat Logs



MRPC 1.1: "Competence. A lawyer shall provide competent representation to a client."

September 2019 Comments: "... including the knowledge and skills regarding existing and developing technology that are reasonably necessary to provide competent representation for the client in particular matter."

MRPC 1.6: "Confidentiality of Information...
When transmitting a communication that contains confidential and/or privileged information relating to the representation of a client, the lawyer should take reasonable measures and act competently so that the confidential and/or privileged client information will not be revealed to unintended third parties."

## Zoom Best Practices

Not One-Size-Fits-All

Water Cooler Version

- Confirm no one is recording, both in written policy and, if necessary, at the beginning of the session.
- Use Chat only for informal communications. If anything needs to be memorialized in the meeting, do so via email or other approved channel.
- Share documents via email or other approved business record channel. If shared via Zoom, also share in approved channel after the meeting.

## Zoom Best Practices

Not One-Size-Fits-All

Business Record Version

- Ensure everyone on and off screen is identified. Make sure all attendees have an official name on the record (e.g., no "FortniteGod73") and attendance is tracked throughout the session.
- Identify a method for sharing and annotating documents. All annotations must be saved <u>before</u> exiting the Zoom session. Agree to an official "record" or "file" for the session within 24 hours.
- Use a second platform for confidential communications.
- If sharing screen, close all other applications or use a "clean" device.

**Questions?** 



Conclusion	
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