

Data Solutions Planning For 2021



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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 (high-stakes) 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



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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?

Privacy Law Compliance


GDPR, CCPA, HIPAA, More



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



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Benefits of an Audit



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

Strengths & 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

Zoom Ethics

Punting to IT is insufficient



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 before 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?



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Conclusion



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