E-Discovery & Business Intelligence

Reducing Risks and Costs in Legal Governance & Compliance
Speakers

**Bob Rohlf, Esq.**  
Director, E-Discovery Strategies, Exterro, Inc.  

- Expert in e-discovery delivery systems, advises Exterro’s development team on product functionality  
- Has deep experience in managing process improvements projects in a variety of industry sectors  
- Extensive experience in managing professional services teams and building effective client relationships  
- Prior to Exterro, served as Global Services Director for Commerce One  
- Holds an MBA from Oregon State University and a JD from Lewis and Clark School of Law

**Adam Wells**  
VP, E-Discovery Services, TERIS  

- Provides clients with strategic direction and best practice guidance across the EDRM at critical points  
- Has worked in the e-discovery/litigation support space for nearly a decade  
- Prior to joining TERIS, served as the lead e-discovery project manager for Robbins Geller Rudman & Dowd, LLP, the largest securities class-action law firm in the world  
- Graduate of George Washington University and Georgetown University
Agenda

• Overview of GRC for legal
  ▪ The rules, rulings and regulations
• Best practices for identifying and preserving ESI
• Understanding the roles & workflows in legal GRC
  ▪ Applying the new EDRM Information Governance Reference Model
  ▪ Leveraging technology & service advancements
• Questions & answers
Legal GRC - The Big Picture

Legal GRC E-Discovery

* Source: Forrester Research
The Rules

- Legal compliance impacted at Federal, State & International levels
  - Federal Rules of Civil Procedure
  - Federal Rules of Evidence
  - United States Code (taxation)
  - State rules on e-discovery
  - EU/international data privacy
The Rulings (& risks)


  - The issue presented was whether KPMG must preserve computer hard drives for thousands of former employees who fall within a potential nationwide FLSA collective and/or a putative New York State class, or whether random sampling of a small number of hard drives would be sufficient to fulfill KPMG's preservation obligations.

  - The court held that KPMG has to preserve all of the data at least until the class certification issue was resolved.

  - The parties were encouraged to meet and confer on a reasonable sampling approach.

- “This case highlights the dangers of carelessness and inattention in e-discovery.”
- I-Med had agreed to unlimited search, including “unallocated space,” which returned over 65MM hits.
- Judge Shipp excused compliance with a discovery agreement that would have required the plaintiff to produce an estimated 65 million documents, finding it would cost too much to screen them for privilege.
- Biomatrix appealed; Judge Shipp’s decision was upheld.
The Regulations

• Over 10,000 regulations mandate data maintenance
  ▪ Department of Justice (DOJ)
  ▪ Department of Labor (DOL)
  ▪ Equal Employment Opportunity Commission (EEOC)
  ▪ Federal Energy Regulatory Commission (FERC)
  ▪ Food & Drug Administration (FDA)
  ▪ Internal Revenue Service (IRS)
  ▪ Securities & Exchange Commission (SEC)
  ▪ U.S. Patent and Trademark Office
  ▪ and many more...
Managing the Complexities
Managing the Evidence

Electronic Discovery Reference Model

- Information Management
- Identification
- Preservation
- Collection
- Review
- Analysis
- Production
- Presentation

VOLUME

RELEVANCE

Electronic Discovery Reference Model / © 2009 / v2.0 / edrm.net
Identifying and Collecting ESI

• The question is no longer “How can we find the needle in the haystack?”
  ▪ This paradigm incorrectly assumes readily identifiable “difference”—i.e., we know what we’re looking for, just not where it is

• Instead, we need to think of legal GRC compliance (e-discovery) as searching for a needle in a sea of needles

• The Challenge:
  ▪ Gaining an understanding of how different types of ESI interact among departments and personnel
  ▪ That is, how can we effectively map a sea of needles so that we know where to begin our search when the need arises?
Maintaining Chain of Custody

- Where did this come from?
- Required documentation
  - Collection date
  - Source Type
  - Source Id
  - Collector
  - Collection Documentation
  - Location
  - Storage/Shipping Information
Best Practices

• Proactively implement an information governance approach that maps your organization’s information infrastructure

• Effectively identify relevant data sources for any type of inquiry, whether driven by external legal factors or internal inquiries

• Collaborate internally and externally with opposing parties to contain scope and costs
Advancement of IGRM

Linking duty + value to information asset = efficient, effective management

**Duty:** Legal obligation for specific information

**Value:** Utility or business purpose of specific information

**Asset:** Specific container of information
The Moving Parts of Legal GRC

...Know your role and the roles of others
Know Your Role: In-House Counsel

- Minimize risks by proactively managing legal GRC requirements
- Improve results by leveraging the collective knowledge of your organization
- Manage costs by bringing together your in-house IT team, technology and outside service providers
Know the Role of Others: IT/RM

1. Preserve the evidence
2. Centralize the data
3. Validate chain of custody
Know the Role of Others: Vendors

• Outside counsel
  ▪ Strategic engagement with corporate client’s GC office, compliance, and IT team
  ▪ Outside counsel should, at a minimum, understand how data is generated and where it’s stored, and the legal requirements/risks attached thereto
  ▪ Interface routinely with Technology and Service Providers to provide oversight of process

• Technology providers
  ▪ Work with legal and IT teams to ensure business and GRC needs are being met with technology solutions offered
  ▪ Consult with service providers to ensure integration
Know the Role of Others: Vendors

• Service providers
  - Align needs of business, legal, and IT teams to implement process and technology solution connecting all stakeholders: Inside Counsel, Outside Counsel, Technology Providers
  - Creates value by enhancing technological efficiencies between and among stakeholders
  - Manage this solution in a variety of implementations, including behind the company firewall or in the cloud
Leveraging Technology

• Built-in best practices deliver efficient *project management* and *workflow systems*
  - Greater control
  - Increased defensibility
  - Reduced costs
Automating the Workflows

- Facilitates early decision strategy discussions
- Reduces redundancy and costs
- Facilitates collaboration and improved outcomes
Technology is Only as Good as the People and Workflow You Surround It With
Questions?
Thank you!

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